Also, petition of the American Laundry Machinery Co., Rochester, N. Y., favoring the passage of House bill 27567, for 1-cent letter postage; to the Committee on the Post Office and Post Roads.

Also, petition of Myron C. Skinner, Yorkville, Ill., favoring the passage of House bill 1339, granting an increase of pension to the veterans of the Civil War who lost an arm or leg; to the Committee on Invalid Pensions.

Also, petition of a German-American mass meeting, New York, protesting against the passage of House bill 8141, placing the State militia on the national pay roll; to the Committee on Military Affairs.

By Mr. LINTHICUM: Petition of the Enterprise Farmers' Club and other citizens of Montgomery County, Md., favoring the passage of legislation for the adoption of the great national highway from Washington, D. C., to Gettysburg, Pa., for a memorial to Abraham Lincoln; to the Committee on the Library.

By Mr. McCALL: Petition of John W. Ayres, of Somerville, Mass., favoring a subsidy for the establishment of fast mail steamers between Boston and Fishguard; to the Committee on the Post Office and Post Roads.

By Mr. NEELEY: Petition of certain citizens of Meade County, Kans., favoring the passage of the Kenyon-Sheppard bill, prohibiting the shipment of liquor into dry territory; to the Committee on the Judiciary.

By Mr. RAKER: Petition of citizens of California, favoring the passage of legislation for the establishment of a national redwood park in Humboldt County, Cal.; to the Committee on Agriculture.

Also, petition of the Chamber of Mines and Oils, protesting against any reduction in the tariff on borax and borate products; to the Committee on Ways and Means.

By Mr. SCULLY: Petition of Illinois Chapter, American Institute of Architects, protesting against the adoption of the design as adopted by the National Commission of Fine Arts for a memorial to Abraham Lincoln; to the Committee on the Library.

Also, petition of the National Society for the Promotion of Industrial Education, New York, favoring the passage of Senate bill 3, for Federal aid for vocational education; to the Committee on Agriculture.

Also, petition of the Eastern Talking Machine Dealers' Association, New York, protesting against the passage of section 2 of the Oldfield patent bill, prohibiting the fixing of prices by the manufacturers of patent goods; to the Committee on Patents.

Also, petition of the Board of Trade of Newark, N. J., favoring the passage of legislation for the establishment of a term of Federal court in Newark, N. J.; to the Committee on the Judiciary.

By Mr. UNDERHILL: Petition of a German-American mass meeting, New York, protesting against the passage of House bill 8141, to place the State militia on the national pay roll; to the Committee on Military Affairs.

By Mr. WILLIS: Petition of S. M. Overfield and 2 other citizens of Woodstock, Ohio, and of Kite & Tomlin and 13 other citizens of St. Paris, Ohio, favoring the passage of legislation compelling concerns selling direct to the consumer by mail to contribute their portion of the funds for the development of the local community, county, etc.; to the Committee on Interstate and Foreign Commerce.

SENATE.

TUESDAY, *January 21, 1913.*

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. CULLOM and by unanimous consent, the further reading was dispensed with and the Journal was approved.

ELECTORS FOR PRESIDENT AND VICE PRESIDENT.

The PRESIDENT pro tempore (Mr. GALLINGER) laid before the Senate a communication from the Secretary of State, transmitting, pursuant to law, an authentic copy of the final ascertainment of electors for President and Vice President appointed in the State of Tennessee at the election held in that State on November 5, 1912, which was ordered to be filed.

IRRIGATION IN WESTERN KANSAS AND OKLAHOMA (S. DOC. NO. 1021).

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of Agriculture, transmitting, pursuant to law, a report of an investigation of the feasibility and economy of irrigation from reservoirs in western Kansas and Oklahoma, which, with the accompanying papers and illustrations, was referred to the Committee on Irrigation and Reclamation of Arid Lands and ordered to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by J. C. South, its Chief Clerk, announced that the House had agreed to the amendment of the Senate to the bill (H. R. 27062) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent children of soldiers and sailors of said war.

The message also announced that the House further insists upon its amendment to the bill (S. 3175) to regulate the immigration of aliens to and the residence of aliens in the United States, disagreed to by the Senate; agrees to the further conference asked for by the Senate on the disagreeing votes of the two Houses thereon; and had appointed Mr. BURNETT, Mr. SABATH, and Mr. GARDNER of Massachusetts managers at the conference on the part of the House.

The message further announced that the House had disagreed to the amendments of the Senate to the bill (H. R. 17260) to amend an act entitled "An act to establish in the Department of the Interior a Bureau of Mines," approved May 16, 1910; asks a conference with the Senate on the disagreeing votes of the two Houses thereon; and had appointed Mr. FOSTER, Mr. WILSON of Pennsylvania, and Mr. HOWELL managers at the conference on the part of the House.

The message also announced that the House had passed the following bills and joint resolutions, in which it requested the concurrence of the Senate:

H. R. 16319. An act to extend and widen Western Avenue NW., in the District of Columbia;

H. R. 21532. An act to incorporate the Rockefeller Foundation;

H. R. 23351. An act to amend an act entitled "An act to provide for an enlarged homestead";

H. R. 24194. An act to create a new division of the western judicial district of Texas and to provide for terms of court at Pecos, Tex., and for other purposes;

H. R. 25780. An act to amend section 3186 of the Revised Statutes of the United States;

H. R. 26279. An act granting the Fifth-Third National Bank, of Cincinnati, Ohio, the right to use original charter No. 20;

H. R. 26549. An act to provide for the construction or purchase of motor boat for customs service;

H. R. 26812. An act to provide for selection by the State of Idaho of phosphate and oil lands;

H. R. 27157. An act granting an extension of time to construct a bridge across Rock River at or near Colona Ferry, in the State of Illinois;

H. J. Res. 326. Joint resolution providing for extending provisions of the act authorizing extension of payments to homesteaders on the Coeur d'Alene Indian Reservation, Idaho; and

H. J. Res. 369. Joint resolution authorizing the Secretary of the Treasury to give certain old Government documents to the Old Newbury Historical Society, of Newburyport, Mass.

The message further announced that the House had passed resolutions commemorative of the life, character, and public services of Hon. DAVID JOHNSON FOSTER, late a Representative from the State of Vermont.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills and joint resolutions, and they were thereupon signed by the President pro tempore:

S. 7637. An act to authorize the construction of a railroad bridge across the Illinois River near Havana, Ill.;

H. R. 45. An act affecting the town sites of Timber Lake and Dupree, in South Dakota;

H. R. 3769. An act for the relief of Theodore N. Gates;

H. R. 14925. An act to amend an act to parole United States prisoners, and for other purposes, approved June 25, 1910;

H. R. 22010. An act to amend the license law, approved July 1, 1902, with respect to licenses of drivers of passenger vehicles for hire;

H. R. 22437. An act for the relief of the heirs of Anna M. Torreson, deceased;

H. R. 23001. An act to amend section 4472 of the Revised Statutes of the United States relating to the carrying of dangerous articles on passenger steamers;

H. R. 24137. An act to refund to the National Cartage & Warehouse Co., of New York City, N. Y., excess duty;

H. R. 25515. An act for the relief of Joshua H. Hutchinson;

H. R. 25764. An act to subject lands of former Fort Niobrara Military Reservation and other lands to homestead entry;

H. R. 25878. An act granting certain lands for a cemetery to the Fort Bidwell People's Church Association, of the town of Fort Bidwell, State of California, and for other purposes;

H. J. Res. 239. Joint resolution authorizing the Secretary of War to deliver a condemned cannon to the Army and Navy Union, United States of America; and

S. J. Res. 150. Joint resolution appropriating $40,000 for expenses of inquiries and investigations ordered by the Senate.

PETITIONS AND MEMORIALS.

The PRESIDENT pro tempore presented the petition of A. W. Lawson, of New York City, praying that an appropriation be made for the organization of an aerial fleet for the American Navy, which was referred to the Committee on Naval Affairs.

Mr. WETMORE presented a memorial of the congregation of the Seventh-day Adventist Church of Westerly, R. I., remonstrating against the observance of Sunday as a day of rest in the District of Columbia, which was ordered to lie on the table.

Mr. TOWNSEND presented memorials of the congregations of the Seventh-day Adventist Churches of Mason, Owosso, and Coldwater, all in the State of Michigan, remonstrating against the observance of Sunday as a day of rest in the District of Columbia, which were ordered to lie on the table.

Mr. BRISTOW presented a petition of sundry citizens of Meade, Kans., praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

Mr. GARDNER presented a petition of Local Grange, Patrons of Husbandry, of Wayne, Me., praying for the passage of the so-called Page vocational education bill, which was ordered to lie on the table.

He also presented a memorial of members of the Pierian Club of Presque Isle, Me., remonstrating against the transfer of the control of the national forests to the several States, which was referred to the Committee on Forest Reservations and the Protection of Game.

He also presented a memorial of Local Branch, German-American Alliance, of Lisbon Falls, Me., and a memorial of the German-American Alliance of Maine, remonstrating against the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

Mr. MYERS. I present resolutions adopted at a meeting of the railroad brotherhood's joint legislative board of Montana, which I ask may lie on the table and be printed in the RECORD.

There being no objection, the resolutions were ordered to lie on the table and to be printed in the RECORD, as follows:

RAILROAD BROTHERHOOD JOINT
LEGISLATIVE BOARD OF MONTANA,
Helena, January 4, 1913.

Hon. HENRY L. MYERS,
United States Senate, Washington, D. C.

DEAR SENATOR: At a meeting of the railroad brotherhoods' joint legislative board, consisting of delegates from all divisions and lodges of the Order of Railway Conductors, Brotherhood of Railroad Trainmen, Brotherhood of Locomotive Engineers, and Brotherhood of Locomotive Firemen and Enginemen the following resolution was passed:

Resolved, That this joint board indorse the resolution presented to the United States Senate by United States Senator HENRY L. MYERS, of Montana, in behalf of the Brotherhood of Locomotive Engineers, against Senate bill 5382 and House bill 20487, workingmen's compensation law, under date of April 10, 1912, and printed in the CONGRESSIONAL RECORD of May 6, 1912; and be it further

Resolved, That we are opposed to any substitute legislation that may interfere with our present liability laws.

Respectfully submitted.

JAMES O'RILEY, *Chairman.*
J. H. HALL, *Acting Secretary.*

Mr. MYERS. I present a memorial signed by citizens of Missoula, Mont., remonstrating against the parole of Federal life prisoners as provided in House bill 14925. I ask that the memorial lie on the table and be printed in the RECORD.

There being no objection, the memorial was ordered to lie on the table and to be printed in the RECORD, as follows:

To the honorable Senate and House of Representatives in Congress assembled:

The undersigned citizens of Missoula, Mont., respectfully remonstrate against the parole of Federal life prisoners as provided in H. R. 14925, as follows, to wit: "That every prisoner who has been or may hereafter be convicted of any offense against the United States and is confined in execution of the judgment of such conviction in any United States penitentiary or prison for a definite term or terms of over one year, or for the term of his natural life, whose record of conduct shows that he has observed the rules of such institution, and who, if sentenced for a definite term, has served one-third of the total of such term or terms for which he was sentenced, or, if sentenced for the term of his natural life, has served not less than 15 years, may be released on parole as hereafter provided."

F. S. LUSK, *Banker, Missoula, Mont.*
E. A. NEWTON, *Banker, Missoula, Mont.*
F. H. ELMORE, *Banker, Missoula, Mont.*

Mr. OLIVER presented a petition of the Men's Brotherhood of the Baptist Church of Montrose, Pa., and a petition of the congregation of the Bridgewater Baptist Church, of Montrose, Pa., praying for the passage of the so-called Kenyon-Sheppard interstate liquor law, which were ordered to lie on the table.

Mr. PERKINS presented a memorial of the Chamber of Commerce of San Francisco, Cal., remonstrating against the adoption of certain amendments to the law relating to bills of lading, which was referred to the Committee on Commerce.

Mr. BRANDEGEE presented a petition of the executive board of the Audubon Society of Connecticut, praying for the enactment of legislation providing for the protection of migratory birds, which was ordered to lie on the table.

Mr. SHIVELY presented memorials of A. H. Keck, Merritt C. Beale, Charles B. Eddy, M. C. Price, Rev. Frank K. Dougherty, and 139 other citizens of South Bend, Ind., remonstrating against the repeal of the law providing for the closing of post offices on Sunday, which were referred to the Committee on Post Offices and Post Roads.

He also presented memorials of the congregations of the Seventh-day Adventist Churches of Boggstown and Fort Wayne, in the State of Indiana, remonstrating against the observance of Sunday as a day of rest in the District of Columbia, which were ordered to lie on the table.

Mr. FLETCHER presented a memorial of the Scott Bros. Co., of Arcadia, Fla., remonstrating against a reduction of the duty on citrus fruits, which was referred to the Committee on Finance.

Mr. GRONNA presented a memorial of sundry citizens of Fargo, N. Dak., remonstrating against a reduction of the duty on harness and saddles, which was referred to the Committee on Finance.

Mr. PENROSE presented a memorial of the Board of Trade of Philadelphia, Pa., remonstrating against the enactment of legislation to abolish involuntary servitude imposed upon seamen in the merchant marine of the United States while in foreign ports, etc., which was referred to the Committee on Commerce.

Mr. JOHNSON of Maine presented telegrams in the nature of petitions from S. L. Merriman, principal of the Aroostook State Normal School; of Albert F. Richardson, of the State Normal Schools, of Castine; of Mrs. Stanley Plummer, president of the Maine Federation of Women's Clubs; of D. J. Callahan, superintendent of schools of Lewiston; of F. G. Wadsworth, president of the Maine Superintendents' Association; of Charles N. Perkins, of Waterville; of Payson Smith, State superintendent of public schools, of Augusta; of H. H. Randall, superintendent of schools, of Auburn; of W. G. Mallett, of Farmington; of W. L. Powers, principal of the Normal School of Machias; and of Androscoggin Grange, No. 8, Patrons of Husbandry, of Greene, all in the State of Maine, praying for the passage of the so-called Page vocational education bill, which were ordered to lie on the table.

Mr. GALLINGER presented a petition of the congregation of the First Universalist Church of Dover, N. H., and a petition of the congregation of the Evangelical Congregational Church of Charlestown, N. H., praying for the passage of the so-called Kenyon-Sheppard interstate-liquor bill, which were ordered to lie on the table.

He also presented a petition of members of the Woman's Club of Berlin, N. H., praying that an appropriation be made for the erection of a Federal building in that city, which was referred to the Committee on Public Buildings and Grounds.

OLD NEWBURY HISTORICAL SOCIETY OF MASSACHUSETTS.

Mr. LODGE, from the Committee on Finance, to which was referred the joint resolution (S. J. Res. 154) authorizing the Secretary of the Treasury to give certain old Government documents to the Old Newbury Historical Society, of Newburyport, Mass., reported it without amendment.

THE MESA VERDE.

Mr. CURTIS. From the Committee on Indian Affairs I desire to make a favorable report, and because of the importance of the case I ask unanimous consent for the immediate consideration of the bill. I report back favorably from that committee, without amendment, the bill (S. 5678) to ratify an agreement with the Weeminuchi (or Wiminuche), and hereafter referred to as the Wiminuche Band of Southern Ute Indians in Colorado, for the relinquishment to the United States of their rights to occupancy of the tract of land known as the Mesa Verde; and I submit a report (No. 1133) thereon.

The PRESIDENT pro tempore. The bill will be read for the information of the Senate.

The Secretary read the bill; and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

Mr. CURTIS. I ask that the letters of the Secretary of the Interior recommending the passage of the bill be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

DEPARTMENT OF THE INTERIOR,
Washington, February 21, 1912.

Hon. ROBERT J. GAMBLE,
Chairman Committee on Indian Affairs, United States Senate.

SIR: In the Indian appropriation act approved March 3, 1903 (32 Stat. L., 998), it is provided:

"That the Secretary of the Interior be, and he is hereby, directed to negotiate with the Weeminuchi Ute Tribe of Indians for the relinquishment of their right of occupancy to the United States to the tract of land known as the Mesa Verde, a part of the reservation of said tribe, situate in the county of Montezuma, in the State of Colorado, the said tract to include and cover the ruins and prehistoric remains situate therein. And the Secretary of the Interior shall report to the next session of Congress the terms and conditions upon which the said tribe of Indians will relinquish to the United States their right of occupancy to said tract of land."

By departmental letter of March 18, 1903, Joseph O. Smith, United States Indian agent in charge of the Southern Ute Agency, Colo., was designated to conduct negotiations with the Indians. Agent Smith held a council with the Weeminuche Band of Southern Ute Indians in the fall of 1903, but the Indians, through their chiefs, refused to enter into any agreement for the cession of that part of their reservation known as the Mesa Verde.

This question was taken up with the Indians in council in June and August, 1904, by William M. Peterson, superintendent in charge of the Fort Lewis School, Colorado, but the Indians were still obdurate and refused to consider an agreement to relinquish any of their reservation.

This question was presented further to them by Supt. U. L. Clardy, in charge of the Navajo Springs Reservation, in the summer of 1910, at which time, as is shown by the records, the matter was thoroughly gone into with the Indians, who absolutely refused to come to any terms.

Under departmental instructions of April 20, 1911, this question was again taken up with the Indians by F. H. Abbott, Assistant Commissioner of Indian Affairs, and James McLaughlin, United States Indian inspector.

These officers arrived at the Navajo Springs Indian Agency, Colo., on May 4, 1911, and on the following day held a council with the Indians and carefully explained to them what was wanted. The Indians were reluctant to entertain any proposition to relinquish their lands, and it was suggested to them that a committee of their leading men be appointed to accompany Mr. Abbott and Inspector McLaughlin to Mesa Verde, that these officers might point out to them the land wanted and that offered in exchange. These officers, accompanied by the Indian committee, visited the Mesa Verde National Park, as created by the act approved June 29, 1906 (34 Stats., 616), and ascertained that the park did not contain important prehistoric ruins, these being situated within the Southern Ute Reservation in township 34 north, range 15 west, adjoining the national park, the area embracing the ruins being about 5½ miles in length, extending south into the Indian reservation about 3¾ miles from its northern boundary line.

After the committee of the tribal council had made its report to the council, negotiations with the Indians were resumed and an agreement reached whereby they agreed to accept in exchange for the land in the reservation containing historic ruins two certain tracts of land bordering on their reservation, one of which is within the present Mesa Verde National Park, containing approximately 7,840 acres, and the other situated in what is known as the Ute Mountain district, containing approximately 19,520 acres, a total of 27,360.

It is pointed out by Messrs. Abbott and McLaughlin that while the agreement provides for giving the Indians from the public domain about 2 acres for 1 relinquished, yet they call attention to the fact that the Ute Mountain tract is of little value, being rough and mountainous and largely devoid of vegetation, and say that its proximity, however, to the Navajo Springs superintendency, adjacent to the present habitations of the Indians, and upon which their stock now range, influenced them largely in assenting to the exchange as concluded.

Reports show that the total number of male adult members of the Weeminuchi Band of Southern Ute Indians on the rolls of the Navajo Springs Agency is about 108; and a certificate of the superintendent in charge of these Indians, dated Navajo Springs, Colo., May 10, 1911, shows that the 65 names attached to the agreement constitute a majority of the adult members of the band and practically all the male adults residing on the reservation.

In order that the territory wanted in exchange by the Indians may be available for them if the agreement should be ratified, the following-described lands were temporarily withdrawn from all forms of settlement, entry, sale, or other disposition, subject to any valid existing rights of any persons, to wit:

The W. ½ of sec. 4, sec. 5, fractional NW. ¼ of sec. 9, fractional sec. 8, T. 34 N., R. 16 W.; sec. 32 and W. ½ of sec. 33, T. 35 N., R. 16 W.; secs. 5 and 6 and fractional secs. 7 and 8, T. 34 N., R. 17 W.; secs. 1, 2, 3, 4, and 5 and fractional secs. 8, 9, 10, 11, and 12, T. 34 N., R. 18 W.; secs. 19, 20, 29, 30, 31, and 32, T. 35 N., R. 17 W.; and secs. 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 32, 33, 34, 35, and 36, T. 35 N., R. 18 W., of the New Mexico principal meridian; all of which lands are situate north of the northern boundary line of the Southern Ute Indian Reservation and in Montezuma County, Colo.

In the discussions had with the Indians, both at the council proceedings and on the grounds themselves, when the committee appointed by the council in conjunction with Inspector McLaughlin and Assistant Commissioner Abbott visited the scenes of the prehistoric ruins, it was understood that "the Balcony House," one of the most important ruins, was to be included in the lands which the Indians agreed to surrender. The Indians themselves understood this and so expressed themselves to the representatives of the Government in the council assembled. A subsequent survey, however, made under the direction of the Geological Survey, discloses that "the Balcony House" is situated just below the south line of the proposed addition to the park, as defined in the agreement.

It becomes necessary, therefore, in order to take in these ruins, which the Indians understood were included in the description given in their agreement, to slightly modify the description as given by extending the southern boundary 30 chains farther south. The additional area included thereby in the addition to the park embraces approximately 1,320 acres, for which it is proposed to surrender to the Indians as an addition to their reservation all of secs. 26 and 27 and the SE. ¼ of sec. 28, T. 35 N., R. 16 W., New Mexico principal meridian, now a part of the Mesa Verde National Park, but in which no ruins of importance exist, 1,440 acres.

After the agreement hereinbefore mentioned was entered into with the Indians and filed with the department, Ralph W. Berry, assistant topographer, and R. B. Marshall, chief geographer, both of the Geological Survey, who during the summer of 1911 had made an inspection of the topographic survey in the park vicinity, suggested that the western, northern, and eastern boundary lines of the park be changed as indicated on the map inclosed and shown by the draft of bill, and Mr. Marshall, in letter of January 23, 1912, copy herewith, gives the reasons why, in his judgment, these changes should be made, and recommends that the boundary lines be amended accordingly.

If these changes in said boundary lines are made, secs. 36, 25, 26, 27, and the SE. ¼ sec. 28, T. 35 N., R. 16 W.; also the SE. ¼ sec. 6, SE ¼ sec. 9, and the NE. ¼ sec. 16, T. 35 N., R. 14 W., will be eliminated, and the W. ½ sec. 6 and the NW. ¼ of fractional sec. 7 (unsurveyed), T. 34 N., R. 16 W., "north of the Ute boundary," which it was originally intended to give the Indians in the exchange, will remain a part of the park.

And lands described as follows, not within the park, will be included therein:

Sec. 19, W. ½ sec. 20, the NE. ¼ sec. 20, the S. ½ sec. 14, T. 35 N., R. 15 W., the NW. ¼ sec. 7, the N. ½ sec. 5, the NE. ¼ sec. 22, T. 35 N., R. 14 W., and all land east of the eastern boundary of the park, from a point on the east bank of the Mancos River directly east of the northeast corner of the NW. ¼ sec. 26, T. 35 N., R. 14 W., south along the east bank of said river to a point where said river intersects the northern boundary of the Southern Ute Indian Reservation.

Originally it was intended that the SE. ¼ of sec. 28, secs. 25, 26, 27, and 36,, T. 35 N., R. 16 W., should be retained in the park, but on the recommendation of Mr. Marshall the west line was changed, as indicated on the map and in the draft of bill, and it is now proposed to give these lands to the Indians in addition to those covered by the agreement; also sec. 36, T. 35 N., R. 18 W. This is a school section, as is also sec. 36, T. 35 N., R. 16 W., but the records of the General Land Office show that the State has selected other lands in lieu of them.

Provision has also been made in the draft of bill for extinguishing the jurisdiction of the department over prehistoric ruins within what is known as the Five Mile Strip on lands adjacent to the eastern, western, and northern boundaries of the park.

The inclosed map shows the boundary of the Mesa Verde National Park as originally established, the proposed new boundary, the northern boundary of the Southern Ute Indian Reservation, the boundary of the tract proposed to be relinquished by the Indians, together with the enlargement thereof necessary to include the "Balcony House" and the lands within the Mesa Verde National Park and on the public domain which it is proposed to give the Indians in exchange.

In the agreement the lands proposed to be ceded to the Government by the Indians and part of the lands to be given the Indians by the Government in exchange are incorrectly described, as the agreement recites that they are in township 34½ north. The proper description of these lands is township 34 north, with the correct range, and "south of the Ute boundary," or north thereof, as the case may be, and in the body of the proposed act this description has been followed so far as said township is concerned.

By the agreement, as modified, 14,520 acres within the reservation, containing important ruins, will be acquired by the United States, for which the Indians will receive in exchange 30,240 acres. The department is satisfied that the Indians thoroughly understand the conditions, and they have expressed a willingness, practically unanimous, to surrender the lands wanted on the terms set forth in their agreement.

Accordingly a bill has been prepared and is transmitted herewith, accepting and ratifying the agreement of May 10, 1911, as modified, in order to take in certain lands containing important ruins, which the Indians understood they were giving up and which they agreed to surrender.

A copy of the joint report of Inspector McLaughlin and Assistant Commissioner Abbott is inclosed herewith for your information.

The department would be pleased to see the suggested legislation given favorable consideration by your committee and the Congress.

Very respectfully,

SAMUEL ADAMS, *Acting Secretary.*

DEPARTMENT OF THE INTERIOR,
Washington, July 19, 1912.

MY DEAR SENATOR: My attention has been directed to the bill (S. 5678) pending before your committee in connection with the Mesa Verde National Park, upon which it is desirable to secure action at this session of Congress if practicable. It appears that the present limits of the Mesa Verde Park do not include some of the more important ruins and points of interest, and that negotiations have been had with the Indians to provide for an exchange of lands by which the park can be appropriately extended. It is desirable that the transaction should be perfected as promptly as practicable, and for this purpose the passage of the pending bill is necessary.

Yours, very truly, WALTER L. FISHER, *Secretary.*

Hon. ROBERT J. GAMBLE,
Chairman Committee on Indian Affairs,
United States Senate.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. WETMORE:

A bill (S. 8212) granting a pension to Eric Edin (with accompanying papers); to the Committee on Pensions.

By Mr. OLIVER:

A bill (S. 8213) granting an increase of pension to Stephen B. Johnson (with accompanying papers); to the Committee on Pensions.

By Mr. SMITH of Maryland:

A bill (S. 8214) to provide for the permanent marking of the spot within the walls of Fort McHenry where the flagstaff was

planted at the Battle of North Point; to the Committee on Military Affairs.

By Mr. KERN:

A bill (S. 8215) granting an increase of pension to William H. Sumption (with accompanying papers); and

A bill (S. 8216) granting an increase of pension to Aaron B. Waggoner (with accompanying papers); to the Committee on Pensions.

By Mr. MARTIN of Virginia:

A bill (S. 8217) authorizing the extension of Seventeenth, Evarts, and Bryant Streets NE., in the District of Columbia; to the Committee on the District of Columbia.

By Mr. GARDNER:

A bill (S. 8218) granting a pension to Emily L. Dow (with accompanying papers);

A bill (S. 8219) granting an increase of pension to William O. Steele (with accompanying papers);

A bill (S. 8220) granting an increase of pension to Charles Burns; and

A bill (S. 8221) granting an increase of pension to Peter Prock (with accompanying papers); to the Committee on Pensions.

By Mr. SWANSON:

A bill (S. 8222) for the relief of Edward William Bailey; to the Committee on Claims.

By Mr. PENROSE:

A bill (S. 8223) granting an increase of pension to Eugene Lenhart; and

A bill (S. 8224) granting a pension to Ida E. Carter; to the Committee on Pensions.

A bill (S. 8225) granting an honorable discharge to James Kennedy (with accompanying papers); to the Committee on Military Affairs.

A bill (S. 8226) granting a pension to Kate G. Caton (with accompanying papers); to the Committee on Pensions.

By Mr. GALLINGER:

A bill (S. 8227) for the relief of Charlotte J. Pile, Eastmond P. Green, and Easie C. Gandell, owners of lots Nos. 53, 54, and 55, in square No. 753, Washington, D. C., with regard to assessment and payment of damages on account of change of grade due to construction of the Union Station in said District (with accompanying papers); to the Committee on the District of Columbia.

By Mr. BROWN:

A bill (S. 8228) granting a pension to Ida M. Smith; to the Committee on Pensions.

By Mr. JOHNSON of Maine:

A bill (S. 8229) granting a pension to Melissa J. Chandler (with accompanying papers); to the Committee on Pensions.

By Mr. POMERENE:

A bill (S. 8230) for the relief of Loren W. Greeno; to the Committee on Naval Affairs.

By Mr. STEPHENSON:

A bill (S. 8231) granting an increase of pension to James Jameson (with accompanying paper); to the Committee on Pensions.

REGENT OF SMITHSONIAN INSTITUTION.

Mr. CULLOM. I introduce a joint resolution and ask unanimous consent that it be put on its passage.

The joint resolution (S. J. Res. 156) to appoint George Gray a member of the Board of Regents of the Smithsonian Institution was read the first time by its title, and the second time at length, as follows:

Resolved, etc., That the vacancy in the Board of Regents of the Smithsonian Institution, in the class other than Members of Congress, shall be filled by the reappointment of George Gray, a citizen of Delaware.

The PRESIDENT pro tempore. Is there objection to the present consideration of the joint resolution?

There being no objection, the joint resolution was considered as in Committee of the Whole.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

THE INAUGURAL CEREMONIES.

Mr. OVERMAN. I introduce the following joint resolution and ask unanimous consent for its present consideration.

The joint resolution (S. J. Res. 157) to enable the Secretary of the Senate and the Clerk of the House of Representatives to pay the necessary expenses of the inaugural ceremonies of the President of the United States on March 4, 1913, was read the first time by its title, and the second time at length, as follows:

Resolved, etc., That to enable the Secretary of the Senate and Clerk of the House of Representatives to pay the necessary expenses of the inaugural ceremonies of the President of the United States March 4, 1913, in accordance with such program as may be adopted by the joint committee of the Senate and House of Representatives, appointed under a concurrent resolution of the two Houses, including the pay for extra police for three days, at $3 per day, there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, $25,000, or so much thereof as may be necessary, the same to be immediately available.

The PRESIDENT pro tempore. Is there objection to the present consideration of the joint resolution?

There being no objection, the joint resolution was considered as in Committee of the Whole.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. GRONNA submitted an amendment providing for a fair to be held at Fort Totten, N. Dak., and proposing to appropriate $1,000, to be expended under the direction and supervision of the superintendent of the Fort Totten Indian School, etc., intended to be proposed by him to the Indian appropriation bill, which was referred to the Committee on Indian Affairs and ordered to be printed.

Mr. JONES submitted an amendment proposing to appropriate $1,800,000, to be expended by the Reclamation Service for the purpose of constructing storage reservoirs to impound flood waters of the Yakima River, on the Yakima Indian Reservation, State of Washington, etc., intended to be proposed by him to the Indian appropriation bill, which was referred to the Committee on Indian Affairs and ordered to be printed.

Mr. MYERS submitted an amendment providing that in all cases where Indians have taken or may hereafter take homesteads or have been or may hereafter be allotted lands upon the public domain, they and their respective families and descendants shall not thereby forfeit their rights to the lands and funds of the tribe to which they belong, etc., intended to be proposed by him to the Indian appropriation bill, which was referred to the Committee on Indian Affairs and ordered to be printed.

Mr. GUGGENHEIM submitted an amendment proposing to settle and adjust the rights under existing treaties and laws of the White River Utes and Southern Utes and other bands of Ute Indians known as the Confederated band of Ute Indians of Colorado, etc., intended to be proposed by him to the Indian appropriation bill, which was referred to the Committee on Indian Affairs and ordered to be printed.

Mr. JOHNSON of Maine submitted an amendment proposing to appropriate $10,000 for completing the improvement of Bass Harbor Bar, Me., etc., intended to be proposed by him to the river and harbor appropriation bill, which was referred to the Committee on Commerce and ordered to be printed.

Mr. DU PONT submitted an amendment proposing that whenever any officer, who has been retired for disability, is found by an examining board, to be appointed by the Secretary of War, to be physically and mentally qualified for active service, the President may, in his discretion, reinstate such officer upon the active list as an extra officer, etc., intended to be proposed by him to the Army appropriation bill, which was referred to the Committee on Military Affairs and ordered to be printed.

Mr. CULBERSON submitted an amendment providing for the improvement of the Houston Ship Channel, Tex., intended to be proposed by him to the river and harbor appropriation bill, which was referred to the Committee on Commerce and ordered to be printed.

He also submitted an amendment proposing to appropriate $217,693.39 to reimburse the State of Texas in full payment of all claims on account of expenses incurred by that State prior to February 9, 1861, etc., intended to be proposed by him to the general deficiency appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

WITHDRAWAL OF PAPERS—MARTHA E. PATTERSON.

On motion of Mr. TOWNSEND, it was

Ordered, That the papers accompanying the bill (S. 7868) granting a pension to Martha E. Patterson, Sixty-second Congress, third session, be withdrawn from the files of the Senate, no adverse report having been made thereon.

COUNTING OF THE ELECTORAL VOTE.

Mr. DILLINGHAM. I offer the following concurrent resolution, for the immediate consideration of which I ask unanimous consent.

The concurrent resolution (S. Con. Res. 35) was read, considered by unanimous consent, and agreed to, as follows:

Resolved by the Senate (the House of Representatives concurring), That the two Houses of Congress shall assemble in the Hall of the House of Representatives on Wednesday, the 12th day of February, 1913, at 1 o'clock in the afternoon, pursuant to the requirements of the Constitution and laws relating to the election of President and Vice President of the United States, and the President of the Senate

pro tempore shall be their presiding officer; that two tellers shall be previously appointed on the part of the Senate and two on the part of the House of Representatives, to whom shall be handed, as they are opened by the President of the Senate pro tempore, all the certificates and papers purporting to be certificates of the electoral votes, which certificates and papers shall be opened, presented, and acted upon in the alphabetical order of the States, beginning with the letter A; and said tellers, having then read the same in the presence and hearing of the two Houses, shall make a list of the votes as they shall appear from the said certificates; and the votes having been ascertained and counted in the manner and according to the rules by law provided, the result of the same shall be delivered to the President of the Senate pro tempore, who shall thereupon announce the state of the vote, which announcement shall be deemed a sufficient declaration of the persons, if any, elected President and Vice President of the United States, and, together with a list of the votes, be entered on the Journals of the two Houses.

EMPLOYMENT OF STENOGRAPHERS.

Mr. MARTIN of Virginia submitted the following resolution (S. Res. 437), which was read and referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

Resolved, That the Secretary of the Senate be, and he hereby is, authorized and directed to pay for two stenographers to Senators who are not chairmen of committees, at $1,200 each per annum, from January 11 and January 20, 1913, respectively, to be paid from the contingent fund of the Senate until the expiration of the present Congress.

OMNIBUS CLAIMS BILL.

Mr. CRAWFORD. The Senate document room report that they have but one copy left of House bill 19115, the omnibus claims bill, and that there are frequent demands for it by parties interested. I ask that an order be made for printing 200 additional copies to supply the demand.

There being no objection, the order was agreed to, and it was reduced to writing, as follows:

Ordered, That 200 additional copies of the bill (H. R. 19115) making appropriation for payment of certain claims in accordance with findings of the Court of Claims, reported under the provisions of the acts approved March 3, 1883, and March 3, 1887, and commonly known as the Bowman and the Tucker Acts, be printed for the use of the Senate document room.

Mr. NEWLANDS. Mr. President, the other day I entered a motion to reconsider the vote by which the omnibus claims bill was passed. I should be glad to have that motion considered now and to have the Senate consider the amendment which I have to offer to the bill.

Mr. CRAWFORD. Mr. President, I have no objection to that course. On the part of the committee I practically agreed to it, with the understanding that it was not to open the door for a rediscussion of the bill and new amendments, but simply to give the Senator from Nevada an opportunity to be heard regarding a class of cases he wished to have incorporated in the bill. I raise no objection and agree that that may be done.

Mr. LODGE. I should like to call the attention of the Senator from Nevada to the fact that the Senator from New York [Mr. ROOT] gave notice, which has appeared on the calendar for some days, that he would desire to address the Senate to-day at the close of the routine morning business.

Mr. NEWLANDS. Then I will bring up the matter after the Senator from New York has concluded his remarks. I ask that the order of reconsideration be entered.

The PRESIDENT pro tempore. It has been entered.

EIGHT-HOUR LAW.

Mr. McCUMBER. Yesterday there was passed by the Senate the bill (H. R. 18787) relating to the limitation of the hours of daily service of laborers and mechanics employed upon a public work of the United States and of the District of Columbia, and of all persons employed in constructing, maintaining, or improving a river or harbor of the United States and of the District of Columbia. There were very few in the Senate at the time the bill was passed. I desire to make a motion at this time to reconsider the vote by which the bill was passed and to allow that motion to remain until at least after the Senator from New York has completed his remarks or until the Senator reporting the bill is present in the Senate. So I ask that the bill may be held in abeyance until I can call up the motion and have it acted upon at a future time.

The PRESIDENT pro tempore. The motion for reconsideration will be entered.

ANNUAL REPORT OF THE PHILIPPINE COMMISSION (H. DOC. NO. 1293).

The PRESIDENT pro tempore laid before the Senate the following message from the President of the United States, which was read, ordered to be printed, and, with the accompanying paper, referred to the Committee on the Philippines:

To the Senate and House of Representatives:

I transmit herewith, for the information of the Congress, the Thirteenth Annual Report of the Philippine Commission for the fiscal year ended June 30, 1912, together with the reports of the Governor General and the secretaries of the four executive departments of the Philippine government for the same period.

WM. H. TAFT.

THE WHITE HOUSE, *January 21, 1913.*

INDIANS OCCUPYING RAILROAD LANDS.

The PRESIDENT pro tempore laid before the Senate the amendments of the House of Representatives to the bill (S. 5674) for the relief of Indians occupying railroad lands.

Mr. CURTIS. I move that the Senate disagree to the amendments of the House of Representatives, request a conference with the House on the disagreeing votes of the two Houses thereon, the conferees on the part of the Senate to be appointed by the Chair.

The motion was agreed to; and the President pro tempore appointed Mr. GAMBLE, Mr. CURTIS, and Mr. ASHURST conferees on the part of the Senate.

BUREAU OF MINES.

The PRESIDENT pro tempore laid before the Senate the action of the House of Representatives disagreeing to the amendments of the Senate to the bill (H. R. 17260) to amend an act entitled "An act to establish in the Department of the Interior a Bureau of Mines," approved May 16, 1910, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. POINDEXTER. I move that the Senate insist upon its amendments, agree to the conference asked for by the House, the conferees on the part of the Senate to be appointed by the Chair.

The motion was agreed to; and the President pro tempore appointed Mr. POINDEXTER, Mr. SUTHERLAND, and Mr. TILLMAN conferees on the part of the Senate.

HOUSE BILLS REFERRED.

The following bills and joint resolution were severally read twice by their titles and referred to the Committee on Public Lands:

H. R. 23351. An act to amend an act entitled "An act to provide for an enlarged homestead";

H. R. 25780. An act to amend section 3186 of the Revised Statutes of the United States;

H. R. 26812. An act to provide for selection by the State of Idaho of phosphate and oil lands; and

H. J. Res. 326. Joint resolution providing for extending provisions of the act authorizing extension of payments to homesteaders on the Coeur d'Alene Indian Reservation, Idaho.

The following bills were severally read twice by their titles and referred to the Committee on the Judiciary:

H. R. 21532. An act to incorporate the Rockefeller Foundation; and

H. R. 24194. An act to create a new division of the western judicial district of Texas and to provide for terms of court at Pecos, Tex., and for other purposes.

The following bills were severally read twice by their titles and referred to the Committee on Commerce:

H. R. 26549. An act to provide for the construction or purchase of motor boats for customs service; and

H. R. 27157. An act granting an extension of time to construct a bridge across Rock River at or near Colona Ferry, in the State of Illinois.

H. R. 16319. An act to extend and widen Western Avenue NW., in the District of Columbia, was read twice by its title and referred to the Committee on the District of Columbia.

H. R. 26279. An act granting the Fifth-Third National Bank, of Cincinnati, Ohio, the right to use original charter No. 20, was read twice by its title and referred to the Committee on Finance.

PANAMA CANAL TOLLS.

Mr. ROOT. Mr. President, in the late days of last summer, after nearly nine months of continuous session, Congress enacted, in the bill to provide for the administration of the Panama Canal, a provision making a discrimination between the tolls to be charged upon foreign vessels and the tolls to be charged upon American vessels engaged in coastwise trade. We all must realize, as we look back, that when that provision was adopted the Members of both Houses were much exhausted; our minds were not working with their full vigor; we were weary physically and mentally. Such discussion as there was was to empty seats. In neither House of Congress, during the period that this provision was under discussion, could there be found more than a scant dozen or two of Members. The provision has been the cause of great regret to a multitude of our fellow citizens, whose good opinion we all desire and whose leadership of opinion in the country makes their approval of the

course of our Congress an important element in maintaining that confidence in government which is so essential to its success. The provision has caused a painful impression throughout the world that the United States has departed from its often-announced rule of equality of opportunity in the use of the Panama Canal, and is seeking a special advantage for itself in what is believed to be a violation of the obligations of a treaty. Mr. President, that opinion of the civilized world is something which we may not lightly disregard. "A decent respect to the opinions of mankind" was one of the motives stated for the people of these colonies in the great Declaration of American Independence.

The effect of the provision has thus been doubly unfortunate, and I ask the Senate to listen to me while I endeavor to state the situation in which we find ourselves; to state the case which is made against the action that we have taken, in order that I may present to the Senate the question whether we should not either submit to an impartial tribunal the question whether we are right; so that if we are right, we may be vindicated in the eyes of all the world, or whether we should not, by a repeal of the provision, retire from the position which we have taken.

In the year 1850, Mr. President, there were two great powers in possession of the North American Continent to the north of the Rio Grande. The United States had but just come to its full stature. By the Webster-Ashburton treaty of 1842 our northeastern boundary had been settled, leaving to Great Britain that tremendous stretch of seacoast including Nova Scotia, New Brunswick, Newfoundland, Labrador, and the shores of the Gulf of St. Lawrence, now forming the Province of Quebec. In 1846 the Oregon boundary had been settled, assuring to the United States a title to that vast region which now constitutes the States of Washington, Oregon, and Idaho. In 1848 the treaty of Guadalupe-Hidalgo had given to us that great empire wrested from Mexico as a result of the Mexican War, which now spreads along the coast of the Pacific as the State of California and the great region between California and Texas.

Inspired by the manifest requirements of this new empire, the United States turned its attention to the possibility of realizing the dream of centuries and connecting its two coasts—its old coast upon the Atlantic and its new coast upon the Pacific—by a ship canal through the Isthmus; but when it turned its attention in that direction it found the other empire holding the place of advantage. Great Britain had also her coast upon the Atlantic and her coast upon the Pacific, to be joined by a canal. Further than that, Great Britain was a Caribbean power. She had Bermuda and the Bahamas; she had Jamaica and Trinidad; she had the Windward Islands and the Leeward Islands; she had British Guiana and British Honduras; she had, moreover, a protectorate over the Mosquito coast, a great stretch of territory upon the eastern shore of Central America which included the river San Juan and the valley and harbor of San Juan de Nicaragua, or Greytown. All men's minds then were concentrated upon the Nicaragua Canal route, as they were until after the treaty of 1901 was made.

And thus when the United States turned its attention toward joining these two coasts by a canal through the Isthmus it found Great Britain in possession of the eastern end of the route which men generally believed would be the most available route for the canal. Accordingly, the United States sought a treaty with Great Britain by which Great Britain should renounce the advantage which she had and admit the United States to equal participation with her in the control and the protection of a canal across the Isthmus. From that came the Clayton-Bulwer treaty.

Let me repeat that this treaty was sought not by England but by the United States. Mr. Clayton, who was Secretary of State at the time, sent our minister to France, Mr. Rives, to London for the purpose of urging upon Lord Palmerston the making of the treaty. The treaty was made by Great Britain as a concession to the urgent demands of the United States.

I should have said, in speaking about the urgency with which the United States sought the Clayton-Bulwer treaty, that there were two treaties made with Nicaragua, one by Mr. Heis and one by Mr. Squier, both representatives of the United States. Each gave, so far as Nicaragua could, great powers to the United States in regard to the construction of a canal, but they were made without authorization from the United States, and they were not approved by the Government of the United States and were never sent to the Senate. Mr. Clayton, however, held those treaties in abeyance as a means of inducing Great Britain to enter into the Clayton-Bulwer treaty. He held them practically as a whip over the British negotiators, and having accomplished the purpose they were thrown into the waste basket.

By that treaty Great Britain agreed with the United States that neither Government should "ever obtain or maintain for itself any exclusive control over the ship canal"; that neither would "make use of any protection" which either afforded to a canal "or any alliance which either" might have "with any State or people for the purpose of erecting or maintaining any fortifications, or of occupying, fortifying, or colonizing Nicaragua, Costa Rica, the Mosquito coast, or any part of Central America, or of assuming or exercising dominion over the same," and that neither would "take advantage of any intimacy, or use any alliance, connection, or influence that either" might "possess with any State or Government through whose territory the said canal may pass, for the purpose of acquiring or holding, directly or indirectly, for the citizens or subjects of the one, any rights or advantages in regard to commerce or navigation through the said canal which shall not be offered on the same terms to the citizens or subjects of the other."

You will observe, Mr. President, that under these provisions the United States gave up nothing that it then had. Its obligations were entirely looking to the future; and Great Britain gave up its rights under the protectorate over the Mosquito coast, gave up its rights to what was supposed to be the eastern terminus of the canal. And, let me say without recurring to it again, under this treaty, after much discussion which ensued as to the meaning of its terms, Great Britain did surrender her rights to the Mosquito coast, so that the position of the United States and Great Britain became a position of absolute equality. Under this treaty also both parties agreed that each should "enter into treaty stipulations with such of the Central American States as they" might "deem advisable for the purpose"—I now quote the words of the treaty—"for the purpose of more effectually carrying out the great design of this convention, namely, that of constructing and maintaining the said canal as a ship communication between the two oceans for the benefit of mankind, on equal terms to all, and of protecting the same."

That declaration, Mr. President, is the cornerstone of the rights of the United States upon the Isthmus of Panama, rights having their origin in a solemn declaration that there should be constructed and maintained a ship canal "between the two oceans for the benefit of mankind, on equal terms to all."

In the eighth article of that treaty the parties agreed:

> The Governments of the United States and Great Britain having not only desired, in entering into this convention, to accomplish a particular object, but also to establish a general principle, they hereby agree to extend their protection, by treaty stipulations, to any other practicable communications, whether by canal or railway, across the isthmus which connects North and South America, and especially to the interoceanic communications, should the same prove to be practicable, whether by canal or railway, which are now proposed to be established by the way of Tehuantepec or Panama. In granting, however, their joint protection to any such canals or railways as are by this article specified, it is always understood by the United States and Great Britain that the parties constructing or owning the same shall impose no other charges or conditions of traffic thereupon than the aforesaid Governments shall approve of as just and equitable; and that the same canals or railways, being open to the citizens and subjects of the United States and Great Britain on equal terms, shall also be open on like terms to the citizens and subjects of every other State which is willing to grant thereto such protection as the United States and Great Britain engage to afford.

There, Mr. President, is the explicit agreement for equality of treatment to the citizens of the United States and to the citizens of Great Britain in any canal, wherever it may be constructed, across the Isthmus. That was the fundamental principle embodied in the treaty of 1850. And we are not without an authoritative construction as to the scope and requirements of an agreement of that description, because we have another treaty with Great Britain—a treaty which formed one of the great landmarks in the diplomatic history of the world, and one of the great steps in the progress of civilization—the treaty of Washington of 1871, under which the Alabama claims were submitted to arbitration. Under that treaty there were provisions for the use of the American canals along the waterway of the Great Lakes, and the Canadian canals along the same line of communication, upon equal terms to the citizens of the two countries.

Some years after the treaty, Canada undertook to do something quite similar to what we have undertaken to do in this law about the Panama Canal. It provided that while nominally a toll of 20 cents a ton should be charged upon the merchandise both of Canada and of the United States there should be a rebate of 18 cents for all merchandise which went to Montreal or beyond, leaving a toll of but 2 cents a ton for that merchandise. The United States objected; and I beg your indulgence while I read from the message of President Cleveland upon that subject, sent to the Congress August 23, 1888. He says:

> By article 27 of the treaty of 1871 provision was made to secure to the citizens of the United States the use of the Welland, St.

Lawrence, and other canals in the Dominion of Canada on terms of equality with the inhabitants of the Dominion, and to also secure to the subjects of Great Britain the use of the St. Clair Flats Canal on terms of equality with the inhabitants of the United States.

The equality with the inhabitants of the Dominion which we were promised in the use of the canals of Canada did not secure to us freedom from tolls in their navigation, but we had a right to expect that we, being Americans and interested in American commerce, would be no more burdened in regard to the same than Canadians engaged in their own trade; and the whole spirit of the concession made was, or should have been, that merchandise and property transported to an American market through these canals should not be enhanced in its cost by tolls many times higher than such as were carried to an adjoining Canadian market. All our citizens, producers and consumers as well as vessel owners, were to enjoy the equality promised.

And yet evidence has for some time been before the Congress, furnished by the Secretary of the Treasury, showing that while the tolls charged in the first instance are the same to all, such vessels and cargoes as are destined to certain Canadian ports—

Their coastwise trade—

are allowed a refund of nearly the entire tolls, while those bound for American ports are not allowed any such advantage.

To promise equality and then in practice make it conditional upon our vessels doing Canadian business instead of their own, is to fulfill a promise with the shadow of performance.

Upon the representations of the United States embodying that view, Canada retired from the position which she had taken, rescinded the provision for differential tolls, and put American trade going to American markets on the same basis of tolls as Canadian trade going to Canadian markets. She did not base her action upon any idea that there was no competition between trade to American ports and trade to Canadian ports, but she recognized the law of equality in good faith and honor; and to this day that law is being accorded to us and by each great Nation to the other.

I have said, Mr. President, that the Clayton-Bulwer treaty was sought by us. In seeking it we declared to Great Britain what it was that we sought. I ask the Senate to listen to the declaration that we made to induce Great Britain to enter into that treaty—to listen to it because it is the declaration by which we are in honor bound as truly as if it were signed and sealed.

Here I will read from the report made to the Senate on the 5th day of April, 1900, by Senator Cushman K. Davis, then chairman of the Committee on Foreign Relations. So you will perceive that this is no new matter to the Senate of the United States and that I am not proceeding upon my own authority in thinking it worthy of your attention.

Mr. Rives was instructed to say and did say to Lord Palmerston, in urging upon him the making of the Clayton-Bulwer treaty, this:

The United States sought no exclusive privilege or preferential right of any kind in regard to the proposed communication, and their sincere wish, if it should be found practicable, was to see it dedicated to the common use of all nations on the most liberal terms and a footing of perfect equality for all.

That the United States would not, if they could, obtain any exclusive right or privilege in a great highway which naturally belonged to all mankind.

That, sir, was the spirit of the Clayton-Bulwer convention. That was what the United States asked Great Britain to agree upon. That self-denying declaration underlaid and permeated and found expression in the terms of the Clayton-Bulwer convention. And upon that representation Great Britain in that convention relinquished her coign of vantage which she herself had for the benefit of her great North American empire for the control of the canal across the Isthmus.

Mr. CUMMINS. Mr. President——

The PRESIDENT pro tempore. Does the Senator from New York yield to the Senator from Iowa?

Mr. ROOT. I do, but——

Mr. CUMMINS. I will ask the Senator from New York whether he prefers that there shall be no interruptions? If he does, I shall not ask any question.

Mr. ROOT. Mr. President, I should prefer it, because what I have to say involves establishing the relation between a considerable number of acts and instruments, and interruptions naturally would destroy the continuity of my statement.

Mr. CUMMINS. The question I was about to ask was purely a historic one.

Mr. ROOT. I shall be very glad to answer the Senator.

Mr. CUMMINS. The Senator has stated that at the time of the Clayton-Bulwer treaty we were excluded from the Mosquito coast by the protectorate exercised by Great Britain over that coast. My question is this: Had we not at that time a treaty with New Granada that gave us equal or greater rights upon the Isthmus of Panama than were claimed even by Great Britain over the Mosquito coast?

Mr. ROOT. Mr. President, we had the treaty of 1846 with New Granada, under which we undertook to protect any railway or canal across the Isthmus. But that did not apply to the Nicaragua route, which was then supposed to be the most available route for a canal.

Mr. CUMMINS. I quite agree with the Senator about that. I only wanted it to appear in the course of the argument that we were then under no disability so far as concerned building a canal across the Isthmus of Panama.

Mr. ROOT. We were under a disability so far as concerned building a canal by the Nicaragua route, which was regarded as the available route until the discussion in the Senate after 1901, in which Senator Spooner and Senator Hanna practically changed the judgment of the Senate with regard to what was the proper route to take. And in the treaty of 1850, so anxious were we to secure freedom from the claims of Great Britain to the eastern end of the Nicaragua route that, as I have read, we agreed that the same contract should apply not merely to the Nicaragua route but to the whole of the Isthmus. So that from that time on the whole Isthmus was impressed by the same obligations which were impressed upon the Nicaragua route, and whatever rights we had under our treaty of 1846 with New Grenada we were thenceforth bound to exercise with due regard and subordination to the provisions of the Clayton-Bulwer treaty.

Mr. President, after the lapse of some 30 years, during the early part of which we were strenuously insisting upon the observance by Great Britain of her obligations under the Clayton-Bulwer treaty and during the latter part of which we were beginning to be restive under our obligations by reason of that treaty, we undertook to secure a modification of it from Great Britain. In the course of that undertaking there was much discussion and some difference of opinion as to the continued obligations of the treaty. But I think that was finally put at rest by the decision of Secretary Olney in the memorandum upon the subject made by him in the year 1896. In that memorandum he said:

Under these circumstances, upon every principle which governs the relation to each other, either of nations or of individuals, the United States is completely estopped from denying that the treaty is in full force and vigor.

If changed conditions now make stipulations, which were once deemed advantageous, either inapplicable or injurious, the true remedy is not in ingenious attempts to deny the existence of the treaty or to explain away its provisions, but in a direct and straightforward application to Great Britain for a reconsideration of the whole matter.

We did apply to Great Britain for a reconsideration of the whole matter, and the result of the application was the Hay-Pauncefote treaty. That treaty came before the Senate in two forms: First, in the form of an instrument signed on the 5th of February, 1900, which was amended by the Senate; and, second, in the form of an instrument signed on the 18th of November, 1901, which continued the greater part of the provisions of the earlier instrument, but somewhat modified or varied the amendments which had been made by the Senate to that earlier instrument.

It is really but one process by which the paper sent to the Senate in February, 1900, passed through a course of amendment; first, at the hands of the Senate, and then at the hands of the negotiators between Great Britain and the United States, with the subsequent approval of the Senate. In both the first form and the last of this treaty the preamble provides for preserving the provisions of article 8 of the Clayton-Bulwer treaty. Both forms provide for the construction of the canal under the auspices of the United States alone instead of its construction under the auspices of both countries.

Both forms of that treaty provide that the canal might be—

constructed under the auspices of the Government of the United States, either directly at its own cost or by gift or loan of money to individuals or corporations or through subscription to or purchase of stock or shares—

that being substituted for the provisions of the Clayton-Bulwer treaty under which both countries were to be patrons of the enterprise.

Under both forms it was further provided that—

Subject to the provisions of the present convention, the said Government—

The United States—

shall have and enjoy all the rights incident to such construction, as well as the exclusive right of providing for the regulation and management of the canal.

That provision, however, for the exclusive patronage of the United States was subject to the initial provision that the modification or change from the Clayton-Bulwer treaty was to be for the construction of such canal under the auspices of the Government of the United States, without impairing the general principle of neutralization established in article 8 of that convention.

Then the treaty as it was finally agreed to provides that the United States "adopt, as the basis of such neutralization of such ship canal," the following rules, substantially as embodied in the convention "of Constantinople, signed the 29th of Octo-

ber, 1888," for the free navigation of the Suez Maritime Canal; that is to say:

First. The canal shall be free and open * * * to the vessels of commerce and of war of all nations "observing these rules on terms of entire equality, so that there shall be no discrimination against any nation or its citizens or subjects in respect to the conditions or charges of traffic, or otherwise." Such conditions and charges of traffic shall be just and equitable.

Then follow rules relating to blockade and vessels of war, the embarkation and disembarkation of troops, and the extension of the provisions to the waters adjacent to the canal.

Now, Mr. President, that rule must, of course, be read in connection with the provision for the preservation of the principle of neutralization established in article 8 of the Clayton-Bulwer convention.

Let me take your minds back again to article 8 of the Clayton-Bulwer convention, consistently with which we are bound to construe the rule established by the Hay-Pauncefote convention. The principle of neutralization provided for by the eighth article is neutralization upon terms of absolute equality both between the United States and Great Britain and between the United States and all other powers.

It is always understood—

Says the eighth article—

by the United States and Great Britain that the parties constructing or owning the same—

That is, the canal—

shall impose no other charges or conditions of traffic thereupon than the aforesaid Governments shall approve of as just and equitable, and that the same canals or railways, being open to the citizens and subjects of the United States and Great Britain on equal terms, shall also be open on like terms to the citizens and subjects of every other State which is willing to grant thereto such protection as the United States and Great Britain engage to afford.

Now, we are not at liberty to put any construction upon the Hay-Pauncefote treaty which violates that controlling declaration of absolute equality between the citizens and subjects of Great Britain and the United States.

Mr. President, when the Hay-Pauncefote convention was ratified by the Senate it was in full view of this controlling principle, in accordance with which their act must be construed, for Senator Davis, in his report from the Committee on Foreign Relations, to which I have already referred——

Mr. McCUMBER. On the treaty in its first form.

Mr. ROOT. Yes; the report on the treaty in its first form. Mr. Davis said, after referring to the Suez convention of 1888:

The United States can not take an attitude of opposition to the principles of the great act of October 22, 1888, without discrediting the official declarations of our Government for 50 years on the neutrality of an Isthmian canal and its equal use by all nations without discrimination.

To set up the selfish motive of gain by establishing a monopoly of a highway that must derive its income from the patronage of all maritime countries would be unworthy of the United States if we owned the country through which the canal is to be built.

But the location of the canal belongs to other governments, from whom we must obtain any right to construct a canal on their territory, and it is not unreasonable, if the question was new and was not involved in a subsisting treaty with Great Britain, that she should question the right of even Nicaragua and Costa Rica to grant to our ships of commerce and of war extraordinary privileges of transit through the canal.

I shall revert to that principle declared by Senator Davis. I continue the quotation:

It is not reasonable to suppose that Nicaragua and Costa Rica would grant to the United States the exclusive control of a canal through those States on terms less generous to the other maritime nations than those prescribed in the great act of October 22, 1888, or if we could compel them to give us such advantages over other nations it would not be creditable to our country to accept them.

That our Government or our people will furnish the money to build the canal presents the single question whether it is profitable to do so. If the canal, as property, is worth more than its cost, we are not called on to divide the profits with other nations. If it is worth less and we are compelled by national necessities to build the canal, we have no right to call on other nations to make up the loss to us. In any view, it is a venture that we will enter upon if it is to our interest, and if it is otherwise we will withdraw from its further consideration.

The Suez Canal makes no discrimination in its tolls in favor of its stockholders, and, taking its profits or the half of them as our basis of calculation, we will never find it necessary to differentiate our rates of toll in favor of our own people in order to secure a very great profit on the investment.

Mr. President, in view of that declaration of principle, in the face of that declaration, the United States can not afford to take a position at variance with the rule of universal equality established in the Suez Canal convention—equality as to every stockholder and all nonstockholders, equality as to every nation whether in possession or out of possession. In the face of that declaration the United States can not afford to take any other position than upon the rule of universal equality of the Suez Canal convention, and upon the further declaration that the country owning the territory through which this canal was to be built would not and ought not to give any special advantage or preference to the United States as compared with all the other nations of the earth. In view of that report the Senate rejected the amendment which was offered by Senator Bard, of California, providing for preference to the coastwise trade of the United States. This is the amendment which was proposed:

The United States reserves the right in the regulation and management of the canal to discriminate in respect of the charges of traffic in favor of vessels of its own citizens engaged in the coastwise trade.

I say, the Senate rejected that amendment upon this report, which declared the rule of universal equality without any preference or discrimination in favor of the United States as being the meaning of the treaty and the necessary meaning of the treaty.

There was still more before the Senate, there was still more before the country to fix the meaning of the treaty. I have read the representations that were made, the solemn declarations made by the United States to Great Britain establishing the rule of absolute equality without discrimination in favor of the United States or its citizens to induce Great Britain to enter into the Clayton-Bulwer treaty.

Now, let me read the declaration made to Great Britain to induce her to modify the Clayton-Bulwer treaty and give up her right to joint control of the canal and put in our hands the sole power to construct it or patronize it or control it.

Mr. Blaine said in his instructions to Mr. Lowell on June 24, 1881, directing Mr. Lowell to propose to Great Britain the modification of the Clayton-Bulwer treaty.

I read his words:

The United States recognizes a proper guarantee of neutrality as essential to the construction and successful operation of any highway across the Isthmus of Panama, and in the last generation every step was taken by this Government that is deemed requisite in the premises. The necessity was foreseen and abundantly provided for long in advance of any possible call for the actual exercise of power. * * * *Nor, in time of peace, does the United States seek to have any exclusive privileges accorded to American ships in respect to precedence or tolls through an interoceanic canal any more than it has sought like privileges for American goods in transit over the Panama Railway, under the exclusive control of an American corporation.* The extent of the privileges of American citizens and ships is measurable under the treaty of 1846 by those of Colombian citizens and ships. *It would be our earnest desire and expectation to see the world's peaceful commerce enjoy the same just, liberal, and rational treatment.*

Secretary Cass had already said to Great Britain in 1857:

The United States, as I have before had occasion to assure your Lordship, *demand no exclusive privileges in these passages*, but will always exert their influence *to secure their free and unrestricted benefits, both in peace and war, to the commerce of the world.*

Mr. President, it was upon that declaration, upon that self-denying declaration, upon that solemn assurance, that the United States sought not and would not have any preference for its own citizens over the subjects and citizens of other countries that Great Britain abandoned her rights under the Clayton-Bulwer treaty and entered into the Hay-Pauncefote treaty, with the clause continuing the principles of clause 8, which embodied these same declarations, and the clause establishing the rule of equality taken from the Suez Canal convention. We are not at liberty to give any other construction to the Hay-Pauncefote treaty than the construction which is consistent with that declaration.

Mr. President, these declarations, made specifically and directly to secure the making of these treaties, do not stand alone. For a longer period than the oldest Senator has lived the United States has been from time to time making open and public declarations of her disinterestedness, her altruism, her purposes for the benefit of mankind, her freedom from desire or willingness to secure special and peculiar advantage in respect of transit across the Isthmus. In 1826 Mr. Clay, then Secretary of State in the Cabinet of John Quincy Adams, said, in his instructions to the delegates to the Panama Congress of that year:

If a canal across the Isthmus be opened "so as to admit of the passage of sea vessels from ocean to ocean, the benefit of it ought not to be exclusively appropriated to any one nation, but should be extended to all parts of the globe upon the payment of a just compensation for reasonable tolls."

Mr. Cleveland, in his annual message of 1885, said:

The lapse of years has abundantly confirmed the wisdom and foresight of those earlier administrations which, long before the conditions of maritime intercourse were changed and enlarged by the progress of the age, proclaimed the vital need of interoceanic transit across the American Isthmus and consecrated it in advance to the common use of mankind by their positive declarations and through the formal obligations of treaties. Toward such realization the efforts of my administration will be applied, ever bearing in mind the principles on which it must rest and which were declared in no uncertain tones by Mr. Cass, who, while Secretary of State in 1858, announced that "What the United States want in Central America next to the happiness of its people is the security and neutrality of the interoceanic routes which lead through it."

By public declarations, by the solemn asseverations of our treaties with Colombia in 1846, with Great Britain in 1850, our

treaties with Nicaragua, our treaty with Great Britain in 1901, our treaty with Panama in 1903, we have presented to the world the most unequivocal guaranty of disinterested action for the common benefit of mankind and not for our selfish advantage.

In the message which was sent to Congress by President Roosevelt on the 4th of January, 1904, explaining the course of this Government regarding the revolution in Panama and the making of the treaty by which we acquired all the title that we have upon the Isthmus, President Roosevelt said:

If ever a Government could be said to have received a mandate from civilization to effect an object the accomplishment of which was demanded in the interest of mankind, the United States holds that position with regard to the interoceanic canal.

Mr. President, there has been much discussion for many years among authorities upon international law as to whether artificial canals for the convenience of commerce did not partake of the character of natural passageways to such a degree that, by the rules of international law, equality must be observed in the treatment of mankind by the nation which has possession and control. Many very high authorities have asserted that that rule applies to the Panama Canal even without a treaty. We base our title upon the right of mankind in the Isthmus, treaty or no treaty. We have long asserted, beginning with Secretary Cass, that the nations of Central America had no right to debar the world from its right of passage across the Isthmus. Upon that view, in the words which I have quoted from President Roosevelt's message to Congress, we base the justice of our entire action upon the Isthmus which resulted in our having the Canal Zone. We could not have taken it for our selfish interest; we could not have taken it for the purpose of securing an advantage to the people of the United States over the other peoples of the world; it was only because civilization had its rights to passage across the Isthmus and because we made ourselves the mandatory of civilization to assert those rights that we are entitled to be there at all. On the principles which underlie our action and upon all the declarations that we have made for more than half a century, as well as upon the express and positive stipulations of our treaties, we are forbidden to say we have taken the custody of the Canal Zone to give ourselves any right of preference over the other civilized nations of the world beyond those rights which go to the owner of a canal to have the tolls that are charged for passage.

Well, Mr. President, asserting that we were acting for the common benefit of mankind, willing to accept no preferential right of our own, just as we asserted it to secure the Clayton-Bulwer treaty, just as we asserted it to secure the Hay-Pauncefote treaty, when we had recognized the Republic of Panama, we made a treaty with her on the 18th of November, 1903. I ask your attention now to the provisions of that treaty. In that treaty both Panama and the United States recognize the fact that the United States was acting, not for its own special and selfish interest, but in the interest of mankind.

The suggestion has been made that we are relieved from the obligations of our treaties with Great Britain because the Canal Zone is our territory. It is said that, because it has become ours, we are entitled to build the canal on our own territory and do what we please with it. Nothing can be further from the fact. It is not our territory, except in trust. Article 2 of the treaty with Panama provides:

The Republic of Panama grants to the United States in perpetuity the use, occupation, and control of a zone of land and land under water for the construction, maintenance, operation, sanitation, and protection of said canal—

And for no other purpose—

of the width of 10 miles extending to the distance of 5 miles on each side of the center line of the route of the canal to be constructed.

* * * * * * *

The Republic of Panama further grants to the United States in perpetuity the use, occupation, and control of any other lands and waters outside of the zone above described which may be necessary and convenient for the construction, maintenance, operation, sanitation, and protection of the said canal or of any auxiliary canals or other works necessary and convenient for the construction, maintenance, operation, sanitation, and protection of the said enterprise.

Article 3 provides:

The Republic of Panama grants to the United States all the rights, power, and authority within the zone mentioned and described in article 2 of this agreement—

From which I have just read—

and within the limits of all auxiliary lands and waters mentioned and described in said article 2 which the United States would possess and exercise if it were the sovereign of the territory within which said lands and waters are located to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power, or authority.

Article 5 provides:

The Republic of Panama grants to the United States in perpetuity a monopoly for the construction, maintenance, and operation of any system of communication by means of canal or railroad across its territory between the Caribbean Sea and the Pacific Ocean.

I now read from article 18:

The canal, when constructed, and the entrances thereto shall be neutral in perpetuity, and shall be opened upon the terms provided for by section 1 of article 3 of, and in conformity with all the stipulations of, the treaty entered into by the Governments of the United States and Great Britain on November 18, 1901.

So, Mr. President, far from our being relieved of the obligations of the treaty with Great Britain by reason of the title that we have obtained to the Canal Zone, we have taken that title impressed with a solemn trust. We have taken it for no purpose except the construction and maintenance of a canal in accordance with all the stipulations of our treaty with Great Britain. We can not be false to those stipulations without adding to the breach of contract a breach of the trust which we have assumed, according to our own declarations, for the benefit of mankind as the mandatory of civilization.

In anticipation of the plainly-to-be-foreseen contingency of our having to acquire some kind of title in order to construct the canal, the Hay-Pauncefote treaty provided expressly in article 4:

It is agreed that no change of territorial sovereignty or of international relations of the country or countries traversed by the before-mentioned canal shall affect the general principle of neutralization or the obligation of the high contracting parties under the present treaty.

So you will see that the treaty with Great Britain expressly provides that its obligations shall continue, no matter what title we get to the Canal Zone; and the treaty by which we get the title expressly impresses upon it as a trust the obligations of the treaty with Great Britain. How idle it is to say that because the Canal Zone is ours we can do with it what we please.

There is another suggestion made regarding the obligations of this treaty, and that is that matters relating to the coasting trade are matters of special domestic concern, and that nobody else has any right to say anything about them. We did not think so when we were dealing with the Canadian canals. But that may not be conclusive as to rights under this treaty. But examine it for a moment.

It is rather poverty of language than a genius for definition which leads us to call a voyage from New York to San Francisco, passing along countries thousands of miles away from our territory, "coasting trade," or to call a voyage from New York to Manila, on the other side of the world, "coasting trade." When we use the term "coasting trade" what we really mean is that under our navigation laws a voyage which begins and ends at an American port has certain privileges and immunities and rights, and it is necessarily in that sense that the term is used in this statute. It must be construed in accordance with our statutes.

Sir, I do not for a moment dispute that ordinary coasting trade is a special kind of trade that is entitled to be treated differently from trade to or from distant foreign points. It is ordinarily neighborhood trade, from port to port, by which the people of a country carry on their intercommunication, often by small vessels, poor vessels, carrying cargoes of slight value. It would be quite impracticable to impose upon trade of that kind the same kind of burdens which great ocean-going steamers, trading to the farthest parts of the earth, can well bear. We make that distinction. Indeed, Great Britain herself makes it, although Great Britain admits all the world to her coasting trade. But it is by quite a different basis of classification—that is, the statutory basis—that we call a voyage from the eastern coast of the United States to the Orient a coasting voyage, because it begins and ends in an American port.

This is a special, peculiar kind of trade which passes through the Panama Canal. You may call it "coasting trade," but it is unlike any other coasting trade. It is special and peculiar to itself.

Grant that we are entitled to fix a different rate of tolls for that class of trade from that which would be fixed for other classes of trade. Ah, yes; but Great Britain has her coasting trade through the canal under the same definition, and Mexico has her coasting trade, and Germany has her coasting trade, and Colombia has her coasting trade, in the same sense that we have. You are not at liberty to discriminate in fixing tolls between a voyage from Portland, Me., to Portland, Oreg., by an American ship, and a voyage from Halifax to Victoria in a British ship, or a voyage from Vera Cruz to Acapulco in a Mexican ship, because when you do so you discriminate, not between coasting trade and other trade, but between American ships and British ships, Mexican ships, or Colombian ships. That is a violation of the rule of equality which we have solemnly adopted, and asserted and reasserted, and to which we are bound by every consideration of honor and good faith. Whatever this treaty means, it means for that kind of trade as well as for any other kind of trade.

The suggestion has been made, also, that we should not consider that the provision in this treaty about equality as to tolls really means what it says, because it is not to be supposed that

the United States would give up the right to defend itself, to protect its own territory, to land its own troops, and to send through the canal as it pleases its own ships of war. That is disposed of by the considerations which were presented to the Senate in the Davis report, to which I have already referred, in regard to the Suez convention.

The Suez convention, from which these rules of the Hay-Pauncefote treaty were taken almost—though not quite—textually, contained other provisions which reserved to Turkey and to Egypt, as sovereigns of the territory through which the canal passed—Egypt as the sovereign and Turkey as the suzerain over Egypt—all of the rights that pertained to sovereigns for the protection of their own territory. As when the Hay-Pauncefote treaty was made neither party to the treaty had any title to the region which would be traversed by the canal, no such clauses could be introduced. But, as was pointed out, the rules which were taken from the Suez Canal for the control of the canal management would necessarily be subject to these rights of sovereignty which were still to be secured from the countries owning the territory. That is recognized by the British Government in the note which has been sent to us and has been laid before the Senate, or is in the possession of the Senate, from the British foreign office.

In Sir Edward Grey's note of November 14, 1912, he says what I am about to read. This is an explicit disclaimer of any contention that the provisions of the Hay-Pauncefote treaty exclude us from the same rights of protection of territory which Nicaragua or Colombia or Panama would have had as sovereigns, and which we succeed to, pro tanto, by virtue of the Panama Canal treaty.

Sir Edward Grey says:

> I notice that in the course of the debate in the Senate on the Panama Canal bill the argument was used by one of the speakers that the third, fourth, and fifth rules embodied in article 3 of the treaty show that the words "all nations" can not include the United States, because, if the United States were at war, it is impossible to believe that it could be intended to be debarred by the treaty from using its own territory for revictualling its warships or landing troops.
>
> The same point may strike others who read nothing but the text of the Hay-Pauncefote treaty itself, and I think it is therefore worth while that I should briefly show that this argument is not well founded.

I read this not as an argument but because it is a formal, official disclaimer which is binding.

Sir Edward Grey proceeds:

> The Hay-Pauncefote treaty of 1901 aimed at carrying out the principle of the neutralization of the Panama Canal by subjecting it to the same régime as the Suez Canal. Rules 3, 4, and 5 of article 3 of the treaty are taken almost textually from articles 4, 5, and 6 of the Suez Canal Convention of 1888. At the date of the signature of the Hay-Pauncefote treaty the territory on which the Isthmian Canal was to be constructed did not belong to the United States, consequently there was no need to insert in the draft treaty provisions corresponding to those in articles 10 and 13 of the Suez Canal Convention, which preserve the sovereign rights of Turkey and of Egypt, and stipulate that articles 4 and 5 shall not affect the right of Turkey, as the local sovereign, and of Egypt, within the measure of her autonomy, to take such measures as may be necessary for securing the defense of Egypt and the maintenance of public order, and, in the case of Turkey, the defense of her possessions on the Red Sea.
>
> Now that the United States has become the practical sovereign of the canal, His Majesty's Government do not question its title to exercise belligerent rights for its protection.

Mr. President, Great Britain has asserted the construction of the Hay-Pauncefote treaty of 1901, the arguments for which I have been stating to the Senate. I realize, sir, that I may be wrong. I have often been wrong. I realize that the gentlemen who have taken a different view regarding the meaning of this treaty may be right. I do not think so. But their ability and fairness of mind would make it idle for me not to entertain the possibility that they are right and I am wrong. Yet, Mr. President, the question whether they are right and I am wrong depends upon the interpretation of the treaty. It depends upon the interpretation of the treaty in the light of all the declarations that have been made by the parties to it, in the light of the nature of the subject matter with which it deals.

Gentlemen say the question of imposing tolls or not imposing tolls upon our coastwise commerce is a matter of our concern. Ah! we have made a treaty about it. If the interpretation of the treaty is as England claims, then it is not a matter of our concern; it is a matter of treaty rights and duties. But, sir, it is not a question as to our rights to remit tolls to our commerce. It is a question whether we can impose tolls upon British commerce when we have remitted them from our own. That is the question. Nobody disputes our right to allow our own ships to go through the canal without paying tolls. What is disputed is our right to charge tolls against other ships when we do not charge them against our own. That is, pure and simple, a question of international right and duty, and depends upon the interpretation of the treaty.

Sir, we have another treaty, made between the United States and Great Britain on the 4th of April, 1908, in which the two nations have agreed as follows:

> Differences which may arise of a legal nature or relating to the interpretation of treaties existing between the two contracting parties and which it may not have been possible to settle by diplomacy, shall be referred to the Permanent Court of Arbitration established at The Hague by the convention of the 29th of July, 1899, provided, nevertheless, that they do not affect the vital interests, the independence, or the honor of the two contracting States, and do not concern the interests of third parties.

Of course, the question of the rate of tolls on the Panama Canal does not affect any nation's vital interests. It does not affect the independence or the honor of either of these contracting States. We have a difference relating to the interpretation of this treaty, and that is all there is to it. We are bound, by this treaty of arbitration, not to stand with arrogant assertion upon our own Government's opinion as to the interpretation of the treaty, not to require that Great Britain shall suffer what she deems injustice by violation of the treaty, or else go to war. We are bound to say, "We keep the faith of our treaty of arbitration, and we will submit the question as to what this treaty means to an impartial tribunal of arbitration."

Mr. President, if we stand in the position of arrogant refusal to submit the questions arising upon the interpretation of this treaty to arbitration, we shall not only violate our solemn obligation, but we shall be false to all the principles that we have asserted to the world, and that we have urged upon mankind. We have been the apostle of arbitration. We have been urging it upon the other civilized nations. Presidents, Secretaries of State, ambassadors, and ministers—aye, Congresses, the Senate and the House, all branches of our Government have committed the United States to the principle of arbitration irrevocably, unequivocally, and we have urged it in season and out of season on the rest of mankind.

Sir, I can not detain the Senate by more than beginning upon the expressions that have come from our Government upon this subject, but I will ask your indulgence while I call your attention to a few selected from the others.

On the 9th of June, 1874, the Senate Committee on Foreign Relations reported and the Senate adopted this resolution:

> *Resolved*, That the United States having at heart the cause of peace everywhere, and hoping to help its permanent establishment between nations, hereby recommend the adoption of arbitration as a great and practical method for the determination of international difference, to be maintained sincerely and in good faith, so that war may cease to be regarded as a proper form of trial between nations.

On the 17th of June, 1874, the Committee on Foreign Affairs of the House adopted this resolution:

> Whereas war is at all times destructive of the material interests of a people, demoralizing in its tendencies, and at variance with an enlightened public sentiment; and whereas *differences between nations should in the interests of humanity and fraternity be adjusted, if possible, by international arbitration:* Therefore,
>
> *Resolved*, That the people of the United States being devoted to the policy of peace with all mankind, enjoining its blessings and hoping for its permanence and its universal adoption, hereby through their representatives in Congress recommend such arbitration as a rational substitute for war; and they further recommend to the treaty-making power of the Government to provide, if practicable, that hereafter in treaties made between the United States and foreign powers war shall not be declared by either of the contracting parties against the other until efforts shall have been made to adjust all alleged cause of difference by impartial arbitration.

On the same 17th of June, 1874, the Senate adopted this resolution:

> *Resolved, etc.*, That the President of the United States is hereby authorized and requested to negotiate with all civilized powers who may be willing to enter into such negotiations for the establishment of an international system whereby matters in dispute between different Governments agreeing thereto may be adjusted by arbitration, and, if possible, without recourse to war.

On the 14th of June, 1888, and again on the 14th of February, 1890, the Senate and the House adopted a concurrent resolution in the words which I now read:

> *Resolved by the Senate (the House of Representatives concurring)*, That the President be, and is hereby, requested to invite, from time to time, as fit occasions may arise, negotiations with any Government with which the United States has, or may have, diplomatic relations, to the end that any differences or disputes arising between the two Governments which can not be adjusted by diplomatic agency may be referred to arbitration and be peaceably adjusted by such means.

This was concurred in by the House on the 3d of April, 1890.

Mr. President, in pursuance of those declarations by both Houses of Congress the Presidents and the Secretaries of State and the diplomatic agents of the United States, doing their bounden duty, have been urging arbitration upon the people of the world. Our representatives in The Hague conference of 1899, and in The Hague conference of 1907, and in the Pan American conference in Washington, and in the Pan American conference in Mexico, and in the Pan American conference in Rio de Janeiro were instructed to urge and did urge and pledge

the United States in the most unequivocal and urgent terms to support the principle of arbitration upon all questions capable of being submitted to a tribunal for a decision.

Under those instructions Mr. Hay addressed the people of the entire civilized world with the request to come into treaties of arbitration with the United States. Here was his letter. After quoting from the resolutions and from expressions by the President he said:

Moved by these views, the President has charged me to instruct you to ascertain whether the Government to which you are accredited, which he has reason to believe is equally desirous of advancing the principle of international arbitration, is willing to conclude with the Government of the United States an arbitration treaty of like tenor to the arrangement concluded between France and Great Britain on October 14, 1903.

That was the origin of this treaty. The treaties made by Mr. Hay were not satisfactory to the Senate because of the question about the participation of the Senate in the make-up of the special agreement of submission. Mr. Hay's successor modified that on conference with the Committee on Foreign Relations of the Senate, and secured the assent of the other countries of the world to the treaty with that modification. We have made 25 of these treaties of arbitration, covering the greater part of the world, under the direction of the Senate of the United States and the House of Representatives of the United States and in accordance with the traditional policy of the United States, holding up to the world the principle of peaceful arbitration.

One of these treaties is here, and under it Great Britain is demanding that the question as to what the true interpretation of our treaty about the canal is shall be submitted to decision and not be made the subject of war or of submission to what she deems injustice to avoid war.

In response to the last resolution which I have read, the concurrent resolution passed by the Senate and the House requesting the President to enter into the negotiations which resulted in these treaties of arbitration, the British House of Commons passed a resolution accepting the overture. On the 16th of July, 1893, the House of Commons adopted this resolution:

Resolved, That this house has learnt with satisfaction that both Houses of the United States Congress have, by resolution, requested the President to invite from time to time, as fit occasions may arise, negotiations with any government with which the United States have or may have diplomatic relations, to the end that any differences or disputes arising between the two governments which can not be adjusted by diplomatic agency may be referred to arbitration and peaceably adjusted by such means, and that this house, cordially sympathizing with the purpose in view, expresses the hope that Her Majesty's Government will lend their ready cooperation to the Government of the United States upon the basis of the foregoing resolution.

Her Majesty's Government did, and thence came this treaty.

Mr. President, what revolting hypocrisy we convict ourselves of, if after all this, the first time there comes up a question in which we have an interest, the first time there comes up a question of difference about the meaning of a treaty as to which we fear we may be beaten in an arbitration, we refuse to keep our agreement? Where will be our self-respect if we do that? Where will be that respect to which a great nation is entitled from the other nations of the earth?

I have read from what Congress has said.

Let me read something from President Grant's annual message of December 4, 1871. He is commenting upon the arbitration provisions of the treaty of 1871, in which Great Britain submitted to arbitration our claims against her, known as the Alabama claims, in which Great Britain submitted those claims where she stood possibly to lose but not possibly to gain anything, and submitted them against the most earnest and violent protest of many of her own citizens. Gen. Grant said:

The year has been an eventful one in witnessing two great nations speaking one language and having one lineage, settling by peaceful arbitration disputes of long standing and liable at any time to bring those nations into costly and bloody conflict. An example has been set which, if successful in its final issue, may be followed by other civilized nations and finally be the means of returning to productive industry millions of men now maintained to settle the disputes of nations by the bayonet and by broadside.

Under the authority of these resolutions our delegates in the first Pan American conference at Washington secured the adoption of this resolution April 18, 1890:

ARTICLE 1. The Republics of North, Central, and South America hereby adopt arbitration as a principle of American international law for the settlement of the differences, disputes, or controversies that may arise between two or more of them.

And *this*:

The International American Conference resolves that this conference, having recommended arbitration for the settlement of disputes among the Republics of America, begs leave to express the wish that controversies between them and the nations of Europe may be settled in the same friendly manner.

It is further recommended that the Government of each nation herein represented communicate this wish to all friendly powers.

Upon that Mr. Blaine, that most vigorous and virile American, in his address as the presiding officer of that first Pan American conference in Washington said:

If, in this closing hour, the conference had but one deed to celebrate we should dare call the world's attention to the deliberate, confident, solemn dedication of two great continents to peace and to the prosperity which has peace for its foundation. We hold up this new Magna Charta, which abolishes war and substitutes arbitration between the American Republics, as the first and great fruit of the International American Conference. That noblest of Americans, the aged poet and philanthropist, Whittier, is the first to send his salutation and his benediction, declaring, "If in the spirit of peace the American conference agrees upon a rule of arbitration which shall make war in this hemisphere well-nigh impossible, its sessions will prove one of the most important events in the history of the world."

President Arthur in his annual message of December 4, 1882, said, in discussing the proposition for a Pan American conference:

I am unwilling to dismiss this subject without assuring you of my support of any measure the wisdom of Congress may devise for the promotion of peace on this continent and throughout the world, and I trust the time is nigh when, with the universal assent of civilized peoples, all international differences shall be determined without resort to arms by the benignant processes of arbitration.

President Harrison in his message of December 3, 1889, said concerning the Pan American conference:

But while the commercial results which it is hoped will follow this conference are worthy of pursuit and of the great interests they have excited, it is believed that the crowning benefit will be found in the better securities which may be devised for the maintenance of peace among all American nations and the settlement of all contentions by methods that a Christian civilization can approve.

President Cleveland, in his message of December 4, 1893, said, concerning the resolution of the British Parliament of July 16, 1893, which I have already read, and commenting on the concurrent resolution of February 14 and April 18, 1890:

It affords me signal pleasure to lay this parliamentary resolution before the Congress and to express my sincere gratification that the sentiment of two great kindred nations is thus authoritatively manifested in favor of the rational and peaceable settlement of international quarrels by honorable resort to arbitration.

President McKinley, in his message of December 6, 1897, said:

International arbitration can not be omitted from the list of subjects claiming our consideration. Events have only served to strengthen the general views on this question expressed in my inaugural address. The best sentiment of the civilized world is moving toward the settlement of differences between nations without resorting to the horrors of war. Treaties embodying these humane principles on broad lines without in any way imperiling our interests or our honor shall have my constant encouragement.

President Roosevelt, in his message of December 3, 1905, said:

I earnestly hope that the conference—

The second Hague conference—

may be able to devise some way to make arbitration between nations the customary way of settling international disputes in all save a few classes of cases, which should themselves be sharply defined and rigidly limited as the present governmental and social development of the world will permit. If possible, there should be a general arbitration treaty negotiated among all nations represented at the conference.

Oh, Mr. President, are we Pharisees? Have we been insincere and false? Have we been pretending in all these long years of resolution and declaration and proposal and urgency for arbitration? Are we ready now to admit that our country, that its Congresses and its Presidents, have all been guilty of false pretense, of humbug, of talking to the galleries, of fine words to secure applause, and that the instant we have an interest we are ready to falsify every declaration, every promise, and every principle? But we must do that if we arrogantly insist that we alone will determine upon the interpretation of this treaty and will refuse to abide by the agreement of our treaty of arbitration.

Mr. President, what is all this for? Is the game worth the candle? Is it worth while to put ourselves in a position and to remain in a position to maintain which we may be driven to repudiate our principles, our professions, and our agreements for the purpose of conferring a money benefit—not very great, not very important, but a money benefit—at the expense of the Treasury of the United States, upon the most highly and absolutely protected special industry in the United States? Is it worth while? We refuse to help our foreign shipping, which is in competition with the lower wages and the lower standard of living of foreign countries, and we are proposing to do this for a part of our coastwise shipping which has now by law the absolute protection of a statutory monopoly and which needs no help.

Mr. President, there is but one alternative consistent with self-respect. We must arbitrate the interpretation of this treaty or we must retire from the position we have taken.

O Senators, consider for a moment what it is that we are doing. We all love our country; we are all proud of its history; we are all full of hope and courage for its future; we love its good name; we desire for it that power among the nations

of the earth which will enable it to accomplish still greater things for civilization than it has accomplished in its noble past. Shall we make ourselves in the minds of the world like unto the man who in his own community is marked as astute and cunning to get out of his obligations? Shall we make ourselves like unto the man who is known to be false to his agreements; false to his pledged word? Shall we have it understood the whole world over that "you must look out for the United States or she will get the advantage of you"; that we are clever and cunning to get the better of the other party to an agreement, and that at the end——

Mr. BRANDEGEE. "Slippery" would be a better word.

Mr. ROOT. Yes; I thank the Senator for the suggestion—"slippery." Shall we in our generation add to those claims to honor and respect that our fathers have established for our country good cause that we shall be considered slippery?

It is worth while, Mr. President, to be a citizen of a great country, but size alone is not enough to make a country great. A country must be great in its ideals; it must be great-hearted; it must be noble; it must despise and reject all smallness and meanness; it must be faithful to its word; it must keep the faith of treaties; it must be faithful to its mission of civilization in order that it shall be truly great. It is because we believe that of our country that we are proud, aye, that the alien with the first step of his foot upon our soil is proud to be a part of this great democracy.

Let us put aside the idea of small, petty advantage; let us treat this situation and these obligations in our relation to this canal in that large way which befits a great nation.

Mr. President, how sad it would be if we were to dim the splendor of that great achievement by drawing across it the mark of petty selfishness; if we were to diminish and reduce for generations to come the power and influence of this free Republic for the uplifting and the progress of mankind by destroying the respect of mankind for us! How sad it would be if you and I, Senators, were to make ourselves responsible for destroying that bright and inspiring ideal which has enabled free America to lead the world in progress toward liberty and justice!

During the delivery of Mr. ROOT's speech,

The PRESIDING OFFICER (Mr. LIPPITT in the chair). The hour of 2 o'clock having arrived, the Chair lays before the Senate the unfinished business, which will be stated.

The SECRETARY. A joint resolution (S. J. Res. 78) proposing an amendment to the Constitution of the United States.

Mr. CUMMINS. I ask unanimous consent that the unfinished business be temporarily laid aside.

The PRESIDING OFFICER. Without objection, the unfinished business will be temporarily laid aside. The Senator from New York will proceed.

After the conclusion of Mr. ROOT's speech,

Mr. NEWLANDS. Mr. President, I give notice that to-morrow at the close of the morning business, if the convenience of the Senate will permit, I shall speak upon the question discussed to-day by the Senator from New York [Mr. ROOT]—the Panama Canal tolls. Assuming even more than the Senator from New York has contended for, namely, that the United States holds the canal in trust for civilization; that the canal is to be regarded as a great international public utility through which the Government of the United States as its administrator is bound to render the same service to all for the same price, I shall endeavor to show that no unjust burthen has been placed upon foreign nations, but that, on the contrary, the United States is bearing and will continue for many years to bear an enormous burthen, the larger portion of which, in justice and in right, it could impose upon the shipping of foreign nations, whose tonnage will for many years constitute at least nine-tenths of the total tonnage of the canal. I refer to the interest charge upon its enormous investment of $400,000,000 in the Panama Canal, which for many years it will be unable to collect.

I shall endeavor to show that there is no necessity for arbitration upon this question; that all that is necessary can be accomplished by adding a few lines to the statute which we have already enacted, providing that the charges from which our domestic ships shall be freed shall not be imposed as an additional charge upon foreign or international shipping, but shall be credited on our interest charge against the Panama investment; that those few lines will demonstrate to the world that the United States intends to administer the canal with justice to all nations and without imposing an unfair burthen upon any, and at the same time to maintain its traditional domestic policy of an untrammeled and unburthened traffic upon its domestic waterways. I shall contend that the Panama Canal is not only an international public utility, but a domestic waterway, and as such, so far as our domestic policies are concerned, is to be administered like any other waterway of the country upon which public moneys have been expended—as a free and untrammeled channel of transportation, trade, and commerce between the various sections of our country.

Mr. BRANDEGEE. Mr. President, I assume the Senator from Nevada means his remarks to follow those for which notice already stands on the calendar after the routine morning business to-morrow.

Mr. NEWLANDS. What notice is that?

Mr. BRANDEGEE. My colleague [Mr. MCLEAN] has given notice that immediately upon the conclusion of the routine morning business to-morrow he will ask the Senate to take up another matter.

Mr. NEWLANDS. Of course that will have precedence.

OLD NEWBURY HISTORICAL SOCIETY, MASSACHUSETTS.

The PRESIDENT pro tempore laid before the Senate the joint resolution (H. J. Res. 369) authorizing the Secretary of the Treasury to give certain old Government documents to the Old Newbury Historical Society, of Newburyport, Mass., which was read the first time by its title.

Mr. LODGE. The Committee on Finance has favorably reported a joint resolution identical with that joint resolution, and I now ask for the present consideration of the House joint resolution. It is only 5 lines, and will not take long.

Mr. CULBERSON. Let the title of the joint resolution be again read.

The PRESIDENT pro tempore. The joint resolution will be read in full before the request for its consideration is put.

The Secretary read the joint resolution (H. J. Res. 369) authorizing the Secretary of the Treasury to give certain old Government documents to the Old Newbury Historical Society, of Newburyport, Mass., the second time at length, as follows:

Resolved, etc., That the Secretary of the Treasury is hereby authorized to give to the Old Newbury Historical Society, of Newburyport, Mass., any or all documents in the customhouse building at Newburyport, Mass., which are of no further value to the United States Government.

The PRESIDENT pro tempore. Is there objection to the present consideration of the joint resolution?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

Mr. LODGE. I move that the joint resolution (S. J. Res. 154) authorizing the Secretary of the Treasury to give certain old Government documents to the Old Newbury Historical Society, of Newburyport, Mass., reported by me this morning from the Committee on Finance, be postponed indefinitely.

The motion was agreed to.

M'CLELLAN PARK.

Mr. MARTINE of New Jersey. I ask unanimous consent for the present consideration of the bill (S. 2845) to acquire certain land in Washington Heights for a public park to be known as McClellan Park.

The PRESIDENT pro tempore. The bill has heretofore been read. Is there objection to its present consideration?

Mr. BRISTOW. Mr. President, I objected to that bill the other day. I did so very largely because I believe when we are establishing public parks they ought to be established where they are most needed. The site of the proposed park is within a couple of blocks of the Zoological Park, and I thought if we were expending money for park purposes we ought to spend it in the congested part of the city where there are no parks.

Mr. MARTINE of New Jersey. Mr. President, this matter was before the Committee on Public Buildings and Grounds, and it was there referred to a special committee. The committee investigated the question and were thoroughly convinced that the situation as it is now was certainly not in existence at the time the original idea and plan of public parks was inaugurated. This plat comprises about 2 acres. It is surrounded with streets and in itself to-day is a park so far as requiring the expenditure of a dollar to put it in shape is concerned. There is a very handsome house on the plat that might be used for a public rest. This plat is surrounded with apartment buildings from 7 to 12 stories high and is about 1 mile from the other end of Rock Creek Park. It was the opinion of the committee that the public need and demand at that point warranted the purchase of this plat. I do not at the moment recall the exact figure involved, but it is something over $100,000.

The PRESIDENT pro tempore. If the Chair may be allowed to make the suggestion, the amount is $180,000.

Mr. MARTINE of New Jersey. $180,000.

Mr. NEWLANDS. I should like to ask if any objection has been interposed to the consideration of this bill? If not, I will have to object.

Mr. WILLIAMS. I should like to propound a parliamentary inquiry. Are we sounding the calendar under the unanimous-consent rule?

The PRESIDENT pro tempore. The Senator from New Jersey has asked unanimous consent for the present consideration of the bill named by him.

Mr. WILLIAMS. Yes; but are we sounding the calendar?

The PRESIDENT pro tempore. No; not at all.

Mr. WILLIAMS. This bill comes up irregularly, then?

The PRESIDENT pro tempore. It does.

Mr. WILLIAMS. Very well.

The PRESIDENT pro tempore. Is there objection to the consideration of the bill?

Mr. NEWLANDS. I object to the present consideration of the bill, as I desire to bring up the motion I made to reconsider the votes by which the omnibus claims bill was ordered to a third reading, read the third time, and passed.

The PRESIDENT pro tempore. Objection is made.

OMNIBUS CLAIMS BILL.

Mr. NEWLANDS obtained the floor.

Mr. CRAWFORD. Mr. President——

The PRESIDENT pro tempore. The Senator from Nevada has been recognized.

Mr. CRAWFORD. I ask the Senator to yield to me.

The PRESIDENT pro tempore. Does the Senator from Nevada yield to the Senator from South Dakota?

Mr. NEWLANDS. Yes.

Mr. CRAWFORD. Mr. President, the omnibus claims bill passed the Senate the other day while the Senator from Nevada was absent. He had given notice of his intention to offer an amendment, but on account of his absence he did not have that opportunity, so that he gave notice of a motion to reconsider. The bill, if the votes are reconsidered, will be before the Senate for that purpose only, and not with any idea of going into a general discussion or of submitting amendments.

Mr. NEWLANDS. Mr. President, I was absent when the omnibus claims bill was finally disposed of the other day. At that time I had pending an amendment providing for the payment of some 80 claims for extra pay of mechanics and laborers on public buildings in some 25 different States, including Alabama, Arkansas, California, Connecticut, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Maine, Massachusetts, Michigan, Missouri, Nebraska, Nevada, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, South Carolina, Texas, Virginia, and Wisconsin—claims aggregating from $500 to $7,000 and totaling about $92,000.

These claims are asserted under the findings of the Court of Claims, which acted upon a bill referred to that court by Congress for consideration, providing for the payment of claims for extra pay. The claims were founded upon the act of August 1, 1892, known as the eight-hour law. Prior to that time the eight-hour law had existed for some period, but it was declared by the courts to be not mandatory, and the result was that a new law was passed on August 1, 1892, from which I quote:

SECTION 1. That the service and employment of all laborers and mechanics who are now or may hereafter be employed by the Government of the United States, by the District of Columbia, or by any contractor or subcontractor upon any of the public works of the United States or of the said District of Columbia, is hereby limited and restricted to eight hours in any one calendar day, and it shall be unlawful for any officer of the United States Government or of the District of Columbia, or any such contractor or subcontractor whose duty it shall be to employ, direct, or control the services of such laborers or mechanics, to require or permit any such laborer or mechanic to work more than eight hours in any calendar day, except in case of extraordinary emergency.

It will be observed that not only was an eight-hour day fixed, but it was made unlawful for any officer of the United States Government to permit work in excess of eight hours. The record shows that with reference to a certain class of laborers, namely, engineers, firemen, mechanics, and laborers, the Treasury Department fixed the compensation by the year, and presumably they fixed that compensation with reference to the requirements of the law as to an eight-hour day. Notwithstanding that fact, all of the men whose claims are now presented were compelled to work in excess of eight hours. That fact is found by the Court of Claims; the fact of compensation is found by the Court of Claims; the number of extra hours is found by the Court of Claims; and the compensation to which these men are entitled for the extra work is also ascertained. The Court of Claims, in presenting these findings of fact, found in reference to all of them practically what they found regarding the claim of one Glanzmann, a resident of the State of Nevada, and from which I will read a quotation:

II. In fixing the compensation and the number of assistant custodians, engineers, janitors, firemen, watchmen, and laborers necessary for the care and maintenance of public buildings belonging to the United States the Government officials charged with that duty took into consideration the locality in which they lived and the cost of living, the size of the building, the character and size of the plant the engineer would have to take charge of, and the mechanical equipment of the building, and fixed the yearly salary for such employees at what the work was worth without regard to the number of hours they might be required to labor.

The chairman of the Committee on Claims insists that, in fixing this compensation, they took into consideration the number of hours in excess of the legal requirement which these laborers might be compelled to labor. I take exception to that statement. The finding of the Court of Claims is simply that the compensation was fixed without regard to the number of hours; and the presumption is that in fixing the compensation they fixed it with a view to the requirements of the law, that no man should be required to work more than eight hours a day. This is proved by the fact that numerous laborers of the same class—common laborers, firemen, engineers, and so forth—were employed for differing hours. Some of them were only compelled to work according to the legal requirement of eight hours, and yet they received the same pay for their class as did the men who were called by their superior officers to work for 12 hours. It is clear, therefore, that the men who fixed this compensation did not take into consideration any extra time, but simply fixed the compensation according to the character of the employment, assuming that the men would only be called upon to work the legal number of hours, for we can not assume that these officials deliberately proposed to break the law, when that very law made it unlawful for them to permit any employment beyond the eight hours.

This contention is verified by the affidavits presented by Mr. W. W. Ludlow and Mr. Fred Casady, who, as I understand, were Treasury officials, charged with the duty of determining the compensation to be paid to these various classes of laborers. These affidavits were made only a few weeks ago, and they were made in view of the statement presented by the chairman of the Committee on Claims that in fixing compensation they had taken into consideration the extra number of hours that the men would be called upon to serve. These men all denied this, and their affidavits are presented in Senate Document No. 985 of the present session.

I read from the statement of W. W. Ludlow, dated December 17, 1912, and sworn to before a notary public:

W. W. Ludlow on oath deposes and says that he is the W. W. Ludlow who testified—

I presume in the Court of Claims—

in connection with the employment and fixing of the compensation of certain engineers, firemen, and laborers in the custodian service; that when he testified that the salary of such employees was fixed "at what the work was worth" without regard to the number of hours they might be required to labor, he meant that he fixed such salary at what the character of the employment was worth; for example, engineers at a certain compensation, firemen at a certain compensation, laborers at a certain compensation. Deponent further deposes and says that in fixing said salary he did not know how many hours the employee might be required to work, and only fixed the salary with a view to the character of the work which the employee would be called upon to perform.

Depositions are made by Mr. Fred Casady and Mr. Robert Tobin to the same effect; and the truth of their statements is proved by the fact that the men who work only 8 hours a day in these various classes of employment receive the same annual compensation as the men who work 12 hours a day.

Mr. President, I do not wish to take the time of the Senate in the discussion of this matter. It is perfectly clear that the intention of Congress from the start has been to enforce the eight-hour law regarding laborers employed on the public buildings, and that after the courts had declared that the provision of law covering that question was not mandatory Congress changed the law and made it mandatory, and made it unlawful for any official of the Government to exact work beyond the eight hours. We have the fact, ascertained by the Court of Claims, that these men did work beyond the eight hours, and the fact that, judged by the compensation for the eight hours, the extra time was worth so much, aggregating in all $92,000.

I wish to say that there is no danger of a large amount of claims being precipitated upon Congress under this law, for of late years the officials of the departments have been careful to enforce the law as to an eight-hour day, and where they have called upon employees to give service beyond the eight hours the various departments, by rules and regulations, have provided for compensation for the extra time. So we find, as a matter of fact, that, with the exception of these claims which arose early under the law, and which were presented to the

Court of Claims, it has now become the settled custom and practice of the departments to pay these amounts for extra time without contest. All this is shown in Senate Document No. 985.

In this statement it appears that Congress has already paid claims of this nature. In the House of Representatives a claim of this nature was pending some time in 1899. As I have already stated, it is not found that many claims of this nature have been presented to Congress since the act of August 1, 1892, owing to the fact that the requirements of that law have been very generally complied with by Government officers, and therefore the instances of claims prosecuted in Congress are few. Most of them are present here, but at least one claim has been settled by an act of Congress.

Joint resolution 307 was presented at the third session of the Fifty-fifth Congress. When this measure was called up in the House of Representatives on February 11, 1899, the following debate ensued:

Mr. DOCKERY. I thought there was an eight-hour law upon the statute books preventing the working of laborers, mechanics, and artisans over eight hours. I shall not object to this bill, because laborers should be paid for any excess of time over eight hours.

Mr. HOPKINS. Well, Mr. Speaker, how are we to construe the remarks of the gentleman from Missouri? Is he in favor or against the joint resolution?

Mr. DOCKERY. "The gentleman from Missouri" stated very clearly that he was in favor of paying any laborer for any excess of time he may have worked over eight hours. As I understand the joint resolution, it proposes to accomplish that result. My query, however, was how they could have been worked over eight hours under existing law.

Mr. HOPKINS. This bill proposes to pay them for the excess of time and 50 per cent in addition to that allowed by law. * * *

That was a very apt inquiry on the part of Mr. Dockery, for, as I have already shown, the law explicitly makes it unlawful for any official to exact more than eight hours' work from any laborer.

This measure thereupon passed the House and later passed the Senate without debate, becoming a law on February 25, 1899. (30 Stat. L., 1389.)

When these claims, aggregating nearly $92,000, were turned over to the Court of Claims to ascertain the facts the contemporaneous debate shows clearly that it was the intention of Congress to see to it that this law was enforced, and that wherever it was not enforced the equitable claim of the laborer for the extra time should be paid. We find Senator CULLOM, in discussing the very resolution under which these claims were considered by the Court of Claims, on September 27, 1890, speaking as follows:

All that I have to say is that it does seem to me that this law, which has been so long upon the statute books, ought to be enforced, and if it is not enforced, certainly the men who are called upon to work more hours than a legal day's work ought to have some way for securing the pay for their extra labor.

Senator Dawes, of Massachusetts, in the same debate, said:

* * * these laborers and mechanics, with as just a claim upon the Government as the bonds of the United States * * *.

Senator Stewart, of Nevada, said:

I agree with the Senator from Massachusetts that we ought to turn these accounts over to the accounting officers and settle them speedily and without delay. It is one of those obligations that the Government should execute at once, without question.

Senator Spooner, of Wisconsin, in the same debate, said:

It is my conviction, Mr. President, that in every case where one of these men was compelled by the officers of the Government as a condition of having employment and of being able to support his family to work one hour or one-half hour over the eight-hour day which Congress had declared for, and which President Grant had sought to enforce, he ought to be paid for that overtime.

Not to do so seems to me to put the Government of the United States in an attitude of allowing its executive officers to violate in essence and in spirit the law which Congress had enacted upon the ground of public policy and which public sentiment has approved, and attempting to filch from these men hours of unrequited toil.

I am perfectly willing to take the responsibility of adjudicating the question of liability, sending these men to the Court of Claims for that tribunal only to ascertain and declare how many hours in each case these men worked beyond the lawful day. I shall vote with great pleasure for the substitute which I understand the Senator from New Hampshire will offer to this bill, which is the same bill as it passed this body at a previous session. In doing so, I only vote for the payment of debts honestly due and too long left unpaid.

Representative Caruth, of Kentucky, said:

Here is a proposition embodied in this bill to allow these men who have performed labor for the Government beyond what would have been their day's labor under the law to receive just compensation for their extra work. * * * I say that if there is to be any sanctity in the statutes of the United States, if the laws we put upon the statute books are to amount to anything, then these men are entitled to the relief they seek.

Representative Gest, of New Jersey, said, referring to a resolution passed by the House of Representatives May 9, 1878, after the decision in the Martin case:

It indicates the sense of the House of Representatives on this subject; that these men should be paid for the time that they had worked above and beyond eight hours a day.

Representative Thomas M. Bayne, of Pennsylvania, said:

The Supreme Court of the United States in a case coming before it has held that the departments of the Government have the right to employ men for 8 hours and pay them for 8 hours; and when it employs men for 10 hours it has the right to pay them an additional sum for their services. That is common sense, common honesty, fair dealing; anything short of that is not.

Representative William D. Kelley, of Pennsylvania, said:

Until that statute is repealed every workingman who is forced by the Government to work 10 hours for a day's wages is defrauded of his legal rights.

The executive policy under the act of 1892 has been to pay these claims in the current administration of the departments, without forcing the claimants to go to Congress or to the courts.

In the Navy Department the regulations passed in 1893 provide:

The following rules shall be observed in estimating the pay of laborers, workmen, and mechanics for work performed in excess of eight hours per day.

Then they go on to say what the extra compensation shall be. All these matters are adjusted in the ordinary course of administration.

So far as I am concerned, Mr. President, I originally represented simply the claim of John Glanzmann, a laborer and custodian in the United States customhouse and post-office building at Carson City, Nev., whose salary as such laborer was fixed at $720 a year, the compensation given for similar work to all men employed by the National Government under the eight-hour law. Yet he was compelled for a long period of time, as a matter of economy to the Government, to work 12 hours a day. His claim does not amount to a large sum. But I found upon pressing it that there were other claims in the same category that ought to be adjusted. So I presented an amendment covering all of these claims and aggregating $92,000.

I do hope the chairman of the committee will not further contest these claims—certainly not upon the intangible ground upon which he stood at the last hearing of this matter.

The PRESIDENT pro tempore. Does the Senator from Nevada move to reconsider the vote whereby the bill was passed? That question has not been stated.

Mr. NEWLANDS. I had an impression that it was done this morning.

The PRESIDENT pro tempore. It has not been done.

Mr. NEWLANDS. Then I will ask that the question be put.

The PRESIDENT pro tempore. The Senator from Nevada moves to reconsider the votes by which the so-called omnibus claims bill was ordered to a third reading, read the third time, and passed.

Th motion to reconsider was agreed to.

The PRESIDENT pro tempore. The bill is before the Senate.

Mr. CRAWFORD. The Senator from Nevada offers his amendment at this stage?

Mr. NEWLANDS. I do.

The PRESIDENT pro tempore. The Senator from Nevada offers an amendment, which will be read by the Secretary.

The SECRETARY. It is proposed to add to the bill the following:

CLAIMS OF LABORERS AND MECHANICS IN PUBLIC BUILDINGS FOR EXTRA TIME.

Alabama: Joseph A. Decatur, Mobile, $2,644.50.

Arkansas: Peter Jarrett, Texarkana, $1,462.35; Perry McCarthy, Texarkana, $65.97.

California: John D. Cash, Stockton, $91.31; Joseph A. Workings, Stockton, $165.

Connecticut: William F. Burns, Hartford, $932.25; Fred H. Collins, Hartford, $300.65; Archie E. Galpin, Bridgeport, $109.50; James B. Garrison, Bridgeport, $218.81; William G. Govan, Hartford, $1,576; Joseph M. Mohr, Hartford, $1,088.50; Edmund R. Wadhams, Torrington, $391.16.

Florida: Forrest Crockett, Jacksonville, $230.06; Nelson F. English, Key West, $124.50; John W. Graham, Jacksonville, $168.85; Catherine Lewis, widow of Albert A. Lewis, Key West, $735; James M. Taylor, Key West, $2,300.50; Dennie Kelly, Key West, $918.

Georgia: Moses Mollette, Brunswick, $628.03.

Illinois: Lemuel Gay, Quincy, $763.75; Silas S. Myers, Joliet, $391.79; John O'Neill, Peoria, $1,181.25; Emmett W. Smith, Aurora, $2,093.58.

Indiana: Timothy C. Harrington, Lafayette, $684.66.

Iowa: John Brown, Des Moines, $1,427.28; Joseph O. Drennan, Des Moines, $3,382.25; John Jordan, Des Moines, $159.37; Edward B. Murphy, Des Moines, $187.87; William Halloran, Des Moines, $1,218.

Kansas: William M. Terrill, Topeka, $609.16.

Maine: David B. Hannegan, Portland, $1,405; James E. Rogers, Bangor, $1,165.83; Llewellyn K. Webber, Bangor, $1,862.91.

Massachusetts: Wilson R. Scribner, Lynn, $1,909.45.

Michigan: Harry E. Drake, Jackson, $2,294.40; Willis E. Stimson, Kalamazoo, $2,522.50.

Missouri: Erbin P. Higgins, Sedalia, $772.08.

Nebraska: Wilson Byerly, Norfolk, $295.50; Jacob Renner, Lincoln, $2,514; John J. Rodgers, Blair, $992.79.

Nevada: John Glanzmann, Carson City, $3,296.

New Hampshire: Henry C. Mace, Concord, $461.45.

New Jersey: Silas A. Bryant, Newark, $599.06; George Jacobus, Newark, $1,596.75; William G. Jell, Newark, $1,418; Fergus McCarthy, Newark, $438.75; Conrad Wagner, Newark, $295.31; Andrew J. Meade, Hoboken, $1,147.18.

New York: Daniel P. Culhane, Rochester, $2,078.75; Joseph C. Leddy, Utica, $191.25; Ezra T. Marney, Ogdensburg, $1,956.66; George Miller, Utica, $767.06; Stephen A. Smith, Utica, $259.50; Abraham Epstein, Ogdensburg, $1,242.50; Robert Tobin, Troy, $2,131.56.

Ohio: John Brodie, Columbus, $659.20; Leslie E. Drake, Toledo, $848.75; Stephen A. Ingles, Portsmouth, $556.25; Rudolph L. Johns, Cleveland, $532.25; Theodore Kipp, Dayton, $540; William L. Krautman, Columbus, $669.77; Joseph Kuehne, Cleveland, $2,496.56; Charles H. McCann, Columbus, $213.58; Thomas Murnane, Columbus, $122.17; Ignac Rosinski, Cleveland, $807.18; David Scurry, Columbus, $533.40; Fred Sinclair, Columbus, $386.25; Joseph Sledz, Cleveland, $720.69; Alonzo Thirlkill, Dayton, $775.31.

Pennsylvania: James Dowling, Altoona, $382.59; Adam Hoke, Harrisburg, $1,151.62; William T. Jordan, York, $583.50; William H. Witta, York, $2,145.

South Carolina: James Butler, Columbia, $1,041.96; John Pinckney, Columbia, $871.92; Louis Pryor, Columbia, $4,310.66.

Texas: Frank Broddeker, Galveston, $1,956.62; Sandy Hester, Galveston, $2,273.33; George King, Austin, $351.18; Thomas Thompson, Waco, $1,169.53; Ambrose B. Williams, Beaumont, $736.50; Sidney B. Williams, Beaumont, $593.76.

Virginia: Charles B. Carter, Richmond, $219.80; William H. Parker, Norfolk, $1,147.87; William G. Singleton, Richmond, $2,050.56; Alfred Strange, Lynchburg, $647.29.

Wisconsin: Olaf Swanson, Ashland, $2,001.99.

The PRESIDENT pro tempore. The question is on agreeing to the amendment submitted by the Senator from Nevada [Mr. NEWLANDS].

Mr. CRAWFORD. Mr. President, the rules under which the Committee on Claims proceeded in making up the omnibus claims bill confined the items which were to go into the bill to those which had been referred to the Court of Claims and in regard to which the Court of Claims had made specific findings in favor of the claims. These are not the claims of laborers engaged on public works, serving contractors or subcontractors, and they do not come within the provisions of the eight-hour-day law.

Mr. NEWLANDS. May I ask the Senator a question?

The PRESIDENT pro tempore. Does the Senator from South Dakota yield to the Senator from Nevada?

Mr. CRAWFORD. I do.

Mr. NEWLANDS. I do not understand that statement on the part of the Senator.

Mr. CRAWFORD. The statute, known as the eight-hour-day law, found in volume 2 of the Supplement to the Revised Statutes of the United States, at page 62, fixing the limit of service per day at eight hours, applies to laborers and mechanics—

who are now, or may hereafter be, employed by the Government of the United States, by the District of Columbia, or by any contractor or subcontractor upon any of the public works of the United States or of the said District of Columbia.

Mr. NEWLANDS. Does the Senator insist that it applies only to laborers who are engaged upon public works?

Mr. CRAWFORD. If the Senator will permit me to finish my statement he will see just exactly what I mean.

The class of employees included in the proposed amendment is not a class of laborers employed by contractors and subcontractors in the construction of public works or upon public works. These men are engineers, custodians, and janitors employed in the public buildings of the United States—in post-office buildings and buildings of that sort.

The Court of Claims, in making its report upon each one of these claims, made this specific finding, which excluded them from consideration in making up the bill under the rule adopted by the Committee on Claims in framing the omnibus claims bill. On each one there is the following finding. The court finds that—

In fixing the compensation and the number of assistant custodians, engineers, janitors, firemen, watchmen, and laborers necessary for the care and maintenance of public buildings belonging to the United States, the Government officials charged with that duty took into consideration the locality in which they lived and the cost of living, the size of the building, the character and size of the plant the engineer would have to take charge of, and the mechanical equipment of the building, and fixed the yearly salary for such employees at what the work was worth without regard to the number of hours they might be required to labor.

That is the clear, specific finding of the Court of Claims in each case.

I am not going to discuss with the Senator from Nevada the question whether or not that finding is a just one, or as to whether this group of claims, presented in another way and for consideration at another time, might not have some merit. I do not care to express an opinion upon that subject now. I am not out of sympathy with this class of men, nor with the claim for an eight-hour-day law. But after the committee has worked for months along certain specific lines and within certain specific rules in determining what items should be placed in the bill and reported favorably it would not be fair to others who may have just claims against the Government, at the last moment, here in the Senate, to depart from the rules adopted in making up the bill and open the door to a large class of claims, with this finding from the Court of Claims standing here as it does to prohibit their going into the bill unless we violate the rules which we followed in framing it.

It is upon that ground, so as to be consistent and fair and just to other claimants whose claims, because they did not fall within the rules that governed us here, shall not be discriminated against, that we can not consent to this amendment and must insist, in fairness to others, that it be rejected.

For instance, the Senator from Oregon [Mr. CHAMBERLAIN], who is most earnestly interested in a claim, came to me only the other day about the claim. Knowing the Senator's earnestness in its behalf, and the courtesy which he always extends to others, I would have been glad to have given it consideration. But it was not suggested nor presented when we were making up the bill, nor even considered. It would be unfair to the claim of the Senator from Oregon now to reconsider the bill simply for the purpose of allowing the claims which the Senator from Nevada has presented and not to include his. If we included his, some one else might bring forward for the first time some claim that had possible merit in it, which never had been considered by the committee, and which did not come within the rules under which the committee was acting, and there would be a contention that that ought to be included. So there would be no line circumscribing the items going into the bill.

Those considerations, together with this finding from the Court of Claims, impel me to resist the amendment offered at this time by the Senator from Nevada.

Mr. NEWLANDS. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The Senator from Nevada suggests the absence of a quorum. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

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Ashurst	Cullom	Lodge	Root
Bankhead	Dillingham	McCumber	Sanders
Bourne	Fletcher	Martin, Va.	Shively
Bradley	Foster	Martine, N. J.	Simmons
Brandegee	Gallinger	Myers	Smith, Ariz.
Bristow	Gamble	Newlands	Smith, Md.
Bryan	Gardner	O'Gorman	Smith, Mich.
Burnham	Guggenheim	Oliver	Smoot
Burton	Heiskell	Overman	Swanson
Catron	Hitchcock	Paynter	Thomas
Chamberlain	Johnson, Me.	Penrose	Thornton
Chilton	Johnston, Ala.	Percy	Townsend
Clark, Wyo.	Johnston, Tex.	Perkins	
Clarke, Ark.	Kern	Perky	
Crawford	La Follette	Pomerene	

Mr. KERN. I desire to announce again the unavoidable absence of the Senator from South Carolina [Mr. SMITH] on account of illness in his family.

The PRESIDENT pro tempore. On the call of the roll 57 Senators have answered to their names. A quorum of the Senate is present. The question is on the amendment submitted by the Senator from Nevada [Mr. NEWLANDS].

Mr. NEWLANDS. Mr. President, I will simply state to the Senate that we are about to take a vote upon these claims for extra pay for mechanics and laborers employed on public buildings under a law which required only eight hours' work and which made it absolutely unlawful for the officials of the Government to employ any man in excess of eight hours. We have here the findings of the Court of Claims that these 87 men, living in 25 States of the Union, as stated in this document, worked overtime, and their extra compensation would amount to about $92,000. A similar claim was passed some years ago by Congress. No such claim, to my knowledge, has been denied.

All that the chairman of the committee can say is that the finding of the Court of Claims determines that the officials of the Treasury Department in fixing the salaries did not take into consideration the number of hours. That is true; because they assumed, and they had the right to assume, that the number of hours would be the legal number of hours—eight hours a day—and that no official of the Government would commit a misdemeanor by requiring of an employee time in excess of eight hours. So, of course, the compensation was fixed without regard to the number of hours upon the assumption that the number of hours during which these men would be employed would comply with the legal requirements.

Mr. President, we have been legislating for years upon the labor question. Congress has determined that the Government of the United States shall be a model employer. It passed an eight-hour law with reference to mechanics and laborers engaged in the public service and prescribed that the limit of

their work should be eight hours. The courts determined that to be simply discretionary, and then Congress passed another act making it mandatory—making it unlawful for any official to employ a man in excess of eight hours.

Here are these men, our constituents in the various States, called upon in defiance of law to work often as many as 12 hours a day when the law requires only 8, rendering their claims to the Government, which have been favorably ascertained by the Court of Claims, and we are told that the Committee on Claims has selected a certain batch of claims which it thinks it can pass through the processes of accommodation or compromise between sections and classes and between the two Houses that have prevailed with reference to this matter.

I insist upon it that if it is a just claim it ought to be recognized by the Congress of the United States. It is the claim of a laboring man who has rendered an employer service under the command of his superior in defiance of law, and it presents equitable consideration to the Government for settlement, the Government itself having received in the case of many of these men four hours more work every day than they were called upon by the law to render.

Mr. PAYNTER. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Nevada yield to the Senator from Kentucky?

Mr. NEWLANDS. Certainly.

Mr. PAYNTER. I just entered the Chamber a few moments ago, and I have not heard the discussion. Has the Court of Claims adjudicated this sum to be due these laborers?

Mr. NEWLANDS. I will give as a sample the case of John Glanzman, who is a laborer and watchman at a public building in Nevada. The Court of Claims finds that while employed as a watchman and laborer at a salary of $720 a year, presumed to be fixed with reference to eight hours a day, the officials at the Treasury Department—

> In fixing the compensation and the number of assistant custodians, engineers, janitors, firemen, watchmen, and laborers necessary for the care and maintenance of public buildings belonging to the United States, the Government officials charged with that duty took into consideration the locality in which they lived and the cost of living, the size of the building, the character and size of the plant the engineer would have to take charge of, and the mechanical equipment of the building, and fixed the yearly salary for such employees at what the work was worth without regard to the number of hours they might be required to labor.

The chairman of the committee seems to assume that when a court says that they fixed this compensation without regard to the number of hours, it is equivalent to a finding that they fixed the labor with regard to the number of hours; that the compensation was therefore fixed for a 9, 10, or 12 hour day instead of an 8-hour day, and that hence the $720 allowed this man is ample compensation. The court finds that they fixed that compensation without considering at all the number of hours, and it is simply with reference to the character of the location that the law fixed the number of hours at 8 hours a day, not 12 hours a day.

Mr. PAYNTER. Mr. President——

The PRESIDING OFFICER (Mr. BRANDEGEE in the chair). Does the Senator from Nevada yield to the Senator from Kentucky?

Mr. NEWLANDS. Certainly. I wish to say to the Senator that that is a sample of these claims.

Mr. PAYNTER. I wish to ask an additional question. Has the court ascertained the number of hours that they worked in excess of eight hours a day?

Mr. NEWLANDS. In each case the number of extra hours and the value.

Mr. PAYNTER. Has the court made any statement as to how it was that these employees worked more hours than they were required to do by law?

Mr. NEWLANDS. No; the court makes no statement about that. It simply finds the facts as to the employment, the character of the employment, the actual number of hours of overtime, and what that overtime was worth judged by the compensation which they received.

Mr. PAYNTER. The question in my mind is whether the service was voluntarily rendered by the parties.

Mr. NEWLANDS. The Senator will hardly claim that a laborer who responds to the demand of an official to work 12 hours when the law requires 8——

Mr. PAYNTER. I did not pretend to make any claim about it. I simply wish to be informed as to the facts.

Mr. NEWLANDS. Now, Mr. President, I should like to have a vote upon the amendment.

Mr. KERN. Mr. President, I should like to ask the Senator from Nevada a question. I observe from the papers I have here in all the cases where they set out the proceedings that one attorney appeared for all of them. I wish to inquire whether some attorney has scoured the United States to hunt up these claims and whether he or they will get a very large part of this appropriation.

That is my first question. My second is this: I see that from my own State there is only one claim, and I imagine under this law, if the attorneys had used the proper diligence, they might have found a very large number of cases.

Mr. CRAWFORD. Mr. President, it is impossible for us to hear what the Senator from Indiana says.

The PRESIDING OFFICER. The Senate will please observe order.

Mr. KERN. My question is whether the adoption of the amendment will not open the door to a large flood of similar claims, amounting to millions of dollars.

Mr. NEWLANDS. I will state regarding that that I represent simply a constituent of mine in Nevada, an honest, hard-working man named John Glanzman, universally respected there, who worked 12 hours a day as a watchman and laborer when the law required him to work only 8 hours a day, and that his pay was $720 a year. He comes in with this claim aggregating $3,296. He wrote me in regard to this matter and gave me the name of his attorney. I sent word to his attorney asking him to familiarize me with the facts in the case. The attorney seemed to me to be a very reputable and respectable man, who is practicing law here as any other man would, and who was presenting what he regarded as just claims against the Government. I found that there were other claims in the same category with that of my client, and I thought it would be better to get the united support of the Senators from the various States whose constituents were similarly affected with a view to getting action by this body, for I know how powerful the Committee on Claims is and how likely the body is always to accept its advice and to reject any claim which it does not favor, or, at all events, to postpone its consideration until the future. Hence, I want as much supporting power as possible in this matter. Having looked into all the findings, I had them grouped and I looked over them carefully; and having been satisfied with the justness of these claims, I presented them in one amendment.

I wish to say that this attorney has never been obtrusive in any way; that he has never been lobbying; that he has never been pushing. I sent for him to ascertain the facts, and the facts are presented in the statement which he got up at my request.

Now, with reference to a flood of claims, I wish to say there is no probability of a flood of claims, for the reason that of late years the departments have recognized their obligation under the law to pay for this overtime, and under regulations they are now paying for overtime without compelling the employees to resort to Congress or to the Court of Claims wherever they work more than eight hours a day. That is a matter of common occurrence in the departments, and I think I am safe in saying that all the claims extant are now covered by these judgments. That is my impression, at least.

Mr. SIMMONS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Nevada yield to the Senator from North Carolina?

Mr. NEWLANDS. Certainly.

Mr. SIMMONS. I understood the Senator to say that now the departments are paying for overtime under the law of Congress. The question I wish to ask the Senator is whether in making the calculation as to what is due to these claimants the Court of Claims recognized the principle laid down by the law of Congress under which he says the departments are now paying for overtime, and whether it is based upon that principle adopted by Congress.

Mr. NEWLANDS. I assume they did. The Court of Claims ascertained the facts. The Court of Claims do not render judgments against the United States. They ascertain the facts, and those facts I have read. Those facts cover, first, the character of the employment; second, the rules which are followed in fixing the compensation of employees.

Mr. SIMMONS. When was that judgment rendered?

Mr. NEWLANDS. December 20, 1909.

Mr. SIMMONS. Has Congress fixed a scale of wages where employees work overtime since that date?

Mr. NEWLANDS. My understanding is that in all these employments of laborers, etc., the compensation is fixed by certain officials in the Treasury Department.

Mr. SIMMONS. That is under an act of Congress?

Mr. NEWLANDS. I presume it is under an act of Congress.

Mr. SIMMONS. And that act prescribes the basis of the calculation.

Mr. NEWLANDS. I do not know whether it prescribes the basis or not. At all events it fixed the compensation, and the

officials whose duty it was to fix the compensation say that they fixed it without considering the number of hours.

Mr. SIMMONS. The question I wish to ask is whether they fixed it under any rule of law or whether they fixed it upon some theory of just compensation evolved by themselves.

Mr. HITCHCOCK. I can answer the question asked by the Senator from North Carolina by reading finding No. 3 in the case quoted:

III. The number of hours worked by claimant in excess of 8 hours a day during the period from August 1, 1892, as set forth in Finding I, is 13,184; and his services for said hours, computed upon the basis of the salary he was receiving during said period, namely, $720 per annum, would amount to $3,296.

So the additional pay is allowed pro rata to the salary he received.

Mr. NEWLANDS. Mr. Casady, one of the officials of the Treasury Department, charged with the duty of fixing the compensation, says:

In fixing the compensation of these employees no consideration was given to the fact that they might or might not be required to work more than eight hours per day.

Employees, such as the claimants, whose duties required them to work more than eight hours per day at the public buildings where they were employed, do not receive any greater compensation than similar employees performing work at other public buildings who were not required to work more than eight hours per day.

Seven hundred and twenty dollars was fixed as the compensation, for instance, of a watchman and laborer. In the case of a man who labored in the building during the day and also acted as watchman his compensation was fixed, regardless of the number of hours. The record is that in some public buildings men worked 8 hours a day and got $720, and in others they were called on to work 12 hours a day and received only $720.

The PRESIDENT pro tempore. The question is on the amendment submitted by the Senator from Nevada.

Mr. CRAWFORD. Mr. President, I do not want the statement of the Senator from Nevada to go entirely without challenge, and some Senators have come in since I was on my feet before.

I desire again to disclaim absolutely and sweepingly any disposition to deprive any laborer anywhere of his right to benefit under any provision of law for an eight-hour day. I simply want to say that the Committee on Claims, as I said a while ago, had to fix a boundary line somewhere in determining what items would be placed in this particular bill, and it decided to confine the items to claims which had express decisions in their favor coming from the Court of Claims.

The claims which the Senator from Nevada is advocating do not have such a decision in their favor from the Court of Claims. I will again read the finding of that court which runs through every one of these cases. The court finds that:

II. In fixing the compensation and the number of assistant custodians, engineers, janitors, firemen, watchmen, and laborers necessary for the care and maintenance of public buildings belonging to the United States the Government officials charged with that duty took into consideration the locality in which they lived and the cost of living, the size of the building, the character and size of the plant the engineer would have to take charge of, and the mechanical equipment of the building, and fixed the yearly salary for such employees at what the work was worth, without regard to the number of hours they might be required to labor.

As I said a while ago, without making an issue or going into a discussion of these particular claims, the Committee on Claims, under the rules which they adopted for guidance as to what should be put into the omnibus claims bill, had to reject these claims from that bill to be fair to other claims which were excluded by its rules, because these claims did not come within their rules.

As I said, if we open up this bill now, the Senator from Oregon [Mr. CHAMBERLAIN], who has been so considerate and fair with reference to his claim, has just as much right to insist that we send his claim to the committee and travel over the whole question with reference to the Oregon claim and have it up for discussion here as the Senator from Nevada has a right to have this whole question reviewed for this class of claims.

If we concede it to the Senator from Oregon any other Senator might think there was some claim that was not within the rules governing the committee which should be considered, and the whole question would come up for review, and the procedure on which it was necessary for the committee to follow in deciding what should go into the omnibus claims bill would be completely broken down and we would be simply at chaos. It is hardly——

Mr. NEWLANDS. May I ask the Senator a question?

Mr. CRAWFORD. In just a moment, when I finish the sentence. The Senator is hardly fair to this committee in making the inference that it has made up this bill simply by balancing one claim against another for the purpose of passing it. I care very little about the question of the mere passage of the bill. The committee has done faithful and diligent work in attempting at least to scrutinize very closely the character of every claim in the bill. I think we have excluded more items that were questionable than has ever been done before in an omnibus claims bill. Our work has been along that line particularly rather than trying with a dragnet to pull claims in concerning which there might be some doubt.

Mr. PAYNTER. Mr. President——

The PRESIDENT pro tempore. Does the Senator from South Dakota yield to the Senator from Kentucky?

Mr. CRAWFORD. Certainly.

Mr. PAYNTER. I did not rise for the purpose of criticizing the conduct just described by the Senator from South Dakota. I am almost tempted to do so, however, by reason of the fact that so many very just claims were excluded by the committee from the bill.

Mr. CRAWFORD. I will say to the Senator that they go to conference, and if the Senator feels that they have been put out unjustly they have to be dealt with in conference.

Mr. PAYNTER. I wish to call the Senator's attention to this fact for the purpose of inquiring as to whether my view is correct or not. If I understood the finding which the Senator read a moment ago to the Senate, it was to the effect that the compensation was fixed for these watchmen and laborers regardless of the hours which they might be employed. Is that correct?

Mr. CRAWFORD. I simply read the finding which said it was fixed at what the service was worth.

Mr. PAYNTER. If that is the case, then it would look like those who fixed the salary fixed it at a less amount than was fixed by the law under which eight hours had been established as a day's work.

Mr. CRAWFORD. I think that is a fair inference.

Mr. PAYNTER. That is a fair inference to be drawn from the finding. I understood the Senator to state that there had been no finding in favor of these claims by the Court of Claims.

Mr. CRAWFORD. The only finding is the one which I read.

Mr. PAYNTER. Except the one which the Senator read.

Mr. CRAWFORD. Yes; except that they did ascertain from their time-keeping records how many hours these men worked. That is true; but the finding as to the merits of their claim and the conclusion of the Court of Claims was the one which I read, where they said they took into consideration the environment, the cost of living, the conditions surrounding them, and fixed the yearly compensation at what the service was worth.

Mr. NEWLANDS. But the Senator construes that as fixing the compensation at what the work was worth with regard to the number of hours instead of, as the Court of Claims says, without regard to the number of hours.

Mr. CRAWFORD. No; the Senator construed it and the committee construed it simply to this extent, that it did not bring these claims within the group and class of claims we were putting in the omnibus claims bill, because we were putting in that bill only those claims where the findings of the Court of Claims were clear and unequivocal in their favor, and with this finding we could not put this group of claims in that class.

Mr. NEWLANDS. I can not understand how a finding can be clearer than this one, when they fix the compensation and then say, "We did not take into consideration at all the number of hours." The assumption is, of course, that the number of hours would be the legal number of hours.

Mr. CRAWFORD. Mr. President, the mere fact that we, under these rules, did not embrace these claims in the bill, finding it necessary to follow some rule, does not mean, as I said, foreclosing these people or erecting a bar or entering judgment against them. Whatever merit they have, I think, it would be fairly well to group them together in one bill and present it here and let it be considered on its merits. But I repeat that in a great bill embracing claims—and they are stacked up before the committee by the hundreds and by the thousands—it is necessary in framing the bill to fix some boundary line and some rule, and after you have once established it to follow it, or there will be just reason of complaint on the part of different Senators. If you break it down and discriminate in favor of one Senator and show a disposition to be partial here and partial there, your troubles would certainly be abundant. We have tried to honestly and fairly adhere to the rules which were adopted by the committee.

Mr. HITCHCOCK. I should like to ask the chairman of the committee whether it is not a fact that the findings of the court, as far as the facts are concerned, are clear and unqualified?

Mr. CRAWFORD. That is true.

Mr. HITCHCOCK. First, that the men did work so many hours overtime?

Mr. CRAWFORD. That is true.

Mr. HITCHCOCK. Second, that the rate of pay was so much; and, third, that at that rate of pay they would be entitled to so much money if the eight-hour law was to be respected?

Mr. CRAWFORD. That is all true.

Mr. HITCHCOCK. Now, if those findings of fact are clear, does not the chairman of the committee think these claims presented by laborers should have been entitled to come within the boundary which he laid out for the bill?

Mr. CRAWFORD. Well, it is too late to go back and go all over that ground again. I do not think so, for this reason: Suppose the compensation was $10,000 a year. Let us make an extravagant assumption. If that salary of $10,000 a year had been prorated per hour, they worked so many hours, and they would be entitled, if the time was limited to eight hours a day, to so much more than they received. You can not cut that loose from the conclusion of the Court of Claims, where the Court of Claims says that in fixing that yearly salary they fixed it at what this labor was worth, and if they fixed it at $1,600 a year, they fixed it because in the opinion of the Treasury officials the services of that janitor were worth $1,600. Although he might work 8 hours one day and 9 hours the next day, and under some emergency 10 hours the next day, when they gave $1,600 for the year they gave him what that service was worth. There is that finding to which we considered we should give some weight.

Mr. HITCHCOCK. I should like to continue my question. If the Court of Claims made these findings of fact, I ask the chairman of the committee was there anything else for the committee to do, or is there anything else for Congress to do, but to say whether the eight-hour law shall be applied to those facts? If that be true, why should that not be done now, rather than keep these laboring men waiting 15 or 20 years to secure the payment of their claims?

Mr. CRAWFORD. I think there was something else to do.

Mr. HITCHCOCK. Nothing but the application of the law.

Mr. CRAWFORD. There was the duty of giving consideration to its conclusion that in fixing the yearly salary they fixed it at what the service was worth; and if these men have received what that service is worth, if that finding by the Court of Claims is true in fact, then wherein does the Government do these men any injustice?

Mr. NEWLANDS. Did they not fix this compensation at what it was worth at eight hours a day?

Mr. CRAWFORD. They do not say anything of the sort, but they do say that they fixed it for what the service was worth, without regard to the number of hours.

Mr. HITCHCOCK. Will the chairman contend——

The PRESIDENT pro tempore. Does the Senator from South Dakota yield to the Senator from Nebraska?

Mr. CRAWFORD. Yes.

The PRESIDENT pro tempore. Senators will kindly address the Chair and get permission to interrupt.

Mr. HITCHCOCK. Mr. President——

The PRESIDENT pro tempore. The Senator from Nebraska.

Mr. HITCHCOCK. Will the chairman of the committee contend that these administrative officers of the department had any right to fix the amount which should be paid to these men for a year's work, without regard to the hours of daily labor, after Congress had prescribed the hours that they should work each day?

Mr. CRAWFORD. The Senator there opens up another question, which shows——

Mr. HITCHCOCK. Is not that the only question in the case?

Mr. CRAWFORD. Oh, no; the Senator opens up another question, which shows how unfair it is to the committee at this late day to bring in this amendment, when the rules followed by the committee do not permit it, because the language of the eight-hour statute applies to men engaged upon public works; and a post-office building in which a man is acting as a janitor or custodian is certainly a different class of work, and, in contemplation of the language used, there is a question of whether that statute applies to the janitor or to the engineer or the custodian in such a building.

Mr. HITCHCOCK. Let me ask the Senator this question——

Mr. CRAWFORD. What about the custodian of a public building?

Mr. HITCHCOCK. Let me ask the chairman this question right there. Is it not a fact that universally the eight-hour law applies not only to public works but to all work done by a contractor for the Government and to these very custodians and watchmen?

Mr. CRAWFORD. I think that is true.

Mr. HITCHCOCK. Well, if that is the fact and that was the intention of Congress, why are the claims of these men not upon a just basis?

Mr. CRAWFORD. I have tried to explain.

Mr. HITCHCOCK. The chairman complains that this is called to the attention of the committee at this late hour. I want to call his attention to the fact that the hour is still later for these men who have been waiting a good many years to ascertain whether Congress meant what the law said it should mean.

Mr. CRAWFORD. I understand the situation very well; but I say to the Senator, if this finding is true and correct, that their compensation was fixed at what the service was worth. It was not fixed by the hour; it was not fixed by the month; but it was fixed by the year.

Mr. HITCHCOCK. But I will say to the Senator again——

Mr. CRAWFORD. And it was fixed at what the service was worth. Then, if that contention is correct as to every farmer in the United States who has employed a plowboy or has employed a man to work by the year, at $400 or $600 a year, it would be equally just to go back and review that contract and to say that, in the contemplation of law, it was only intended that that plowboy or that man working in the field should be engaged for eight hours a day, and ask the farmer to go back and compute the number of hours the boy milking the cows late at night and getting up at 4 o'clock in the morning, going into the field and working 14 and even 15 hours a day, as I know many and many of them do—you would have in principle just as much right to go back and make that farmer review the service of that employee, to clip off the service at the end of eight hours, and apportion that $400 a year to it, and then give the employee a judgment for the difference.

There are two sides to this question. The Senator drives me to it, and I do it with the utmost liberality, kindness, and fairness toward these janitors and these engineers, but I say the committee was justified, and it was consistent, after establishing these rules, in adhering to them and keeping this group of claims upon which this finding was made for consideration strictly upon their merits instead of putting them into this bill, and that is as far as we go in the matter.

Mr. HITCHCOCK. Mr. President, I am amazed that the Senator from South Dakota should attempt to compare or to give as a parallel case the farmer employing a man by the year or the month without any limitation by law as to the number of hours that he can contract with his man to work——

Mr. CRAWFORD. I am discussing——

Mr. HITCHCOCK. Let me finish.

Mr. CRAWFORD. Very well.

Mr. HITCHCOCK. And the case of a Government employee, who is supposed to be acting under the direction of Congress, after Congress has directed that the men employed shall work only eight hours, and when, as a matter of fact, the employee of the Government has no power to make a contract, but has a right to depend upon the acts of Congress made for his protection.

Mr. CRAWFORD. Will the Senator permit me to say he is now discussing a law that was passed after this service was rendered?

Mr. HITCHCOCK. I am not discussing a law that was passed afterwards. I am discussing a law that was passed previously. It has been necessary, however, since 1892 to pass a number of supplemental acts in order to enforce and emphasize the will of Congress and to compel these administrative officials to obey it. That is the only reason subsequent laws were passed.

Mr. CRAWFORD. The Senator can not make any issue with me as to the justice and soundness of the eight-hour-day law, but I reiterate that in principle, in morals, and from the standpoint of the personal right of the individual, the janitor in a public building is not any better than the plowboy; the engineer in the basement of a Government post-office building is not any better than the boy who gets up at 4 o'clock in the morning on the farm and works until 10 o'clock at night—not a bit. I am speaking as a matter of principle and of moral right.

Mr. CLARKE of Arkansas. May I ask the Senator from South Dakota a question?

The PRESIDENT pro tempore. Does the Senator from South Dakota yield to the Senator from Arkansas?

Mr. CRAWFORD. Certainly.

Mr. CLARKE of Arkansas. Does it appear that these claims have been assigned or is there an affirmative showing that they are still in the ownership of the persons who rendered this so-called service?

Mr. CRAWFORD. We know nothing about that, if the Senator please.

Mr. CLARKE of Arkansas. Does the Senator know what part of this money would go to the claim agents, who probably worked up these claims, in the event this item should be included?

Mr. CRAWFORD. I will say that a number of these claims have been worked up by attorneys. I am going to discuss one in a few moments, if we ever get through with this matter, the case of the Cramp Shipbuilding Co., and I should like to get through with this so as take that up. I have a few things to say to the Senate about it.

Mr. CLARKE of Arkansas. If the Senator is not prepared to answer at this time the question I submitted to him, I will ask permission to ask him again at a little later stage of the discussion.

The PRESIDENT pro tempore. The question is on agreeing to the amendment proposed by the Senator from Nevada [Mr. NEWLANDS].

Mr. HITCHCOCK. I ask for the yeas and nays.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. GARDNER (when his name was called). I am paired for the day with the Senator from Massachusetts [Mr. CRANE] and therefore withhold my vote.

Mr. TOWNSEND (when the name of Mr. JONES was called). The senior Senator from Washington [Mr. JONES] is unavoidably detained from the Senate on official business.

Mr. KERN (when his name was called). I have a general pair with the Senator from Kentucky [Mr. BRADLEY]. Not knowing how he would vote if he were present, I withhold my vote.

Mr. LIPPITT (when his name was called). I transfer my pair with the senior Senator from Tennessee [Mr. LEA] to the junior Senator from Maryland [Mr. JACKSON] and will vote. I vote "nay."

Mr. LODGE (when his name was called). I have a general pair with the junior Senator from Georgia [Mr. SMITH]. I do not know how that Senator would vote if present, and I therefore withhold my vote.

Mr. PAYNTER (when his name was called). I have a general pair with the senior Senator from Colorado [Mr. GUGGENHEIM] and therefore withhold my vote.

Mr. PERKINS (when his name was called). I have a general pair with the junior Senator from North Carolina [Mr. OVERMAN]. Not knowing how he would vote on this question if present, I withhold my vote.

Mr. SIMMONS (when his name was called). I have a general pair with the junior Senator from Minnesota [Mr. CLAPP]. I do not know how he would vote if present, and I therefore withhold my vote.

Mr. STONE (when his name was called). I have a general pair with the Senator from Wyoming [Mr. CLARK]. I do not know how he would vote if present, and so I withhold my vote.

The roll call was concluded.

Mr. CURTIS. I desire to announce that I have a pair with the Senator from Oklahoma [Mr. OWEN], and I therefore withhold my vote.

Mr. DU PONT. I have a general pair with the senior Senator from Texas [Mr. CULBERSON]. As he is not in the Chamber I withhold my vote.

Mr. MYERS. I have a general pair with the Senator from Connecticut [Mr. MCLEAN]. I transfer that pair to the junior Senator from Florida [Mr. BRYAN] and will vote. I vote "yea."

The PRESIDENT pro tempore (when Mr. GALLINGER's name was called). The occupant of the chair is paired with the junior Senator from New York [Mr. O'GORMAN] and therefore withholds his vote.

The result was announced—yeas 19, nays 28, as follows:

YEAS—19.

Ashurst	Fletcher	Martine, N. J.	Shively
Bankhead	Gore	Myers	Smith, Ariz.
Burton	Hitchcock	Newlands	Smith, Md.
Chamberlain	Johnson, Me.	Perky	Works
Chilton	La Follette	Pomerene	

NAYS—28.

Bourne	Dillingham	Martin, Va.	Smoot
Bristow	Gamble	Nelson	Sutherland
Brown	Gronna	Oliver	Swanson
Burnham	Heiskell	Page	Thornton
Clarke, Ark.	Johnston, Ala.	Poindexter	Tillman
Crawford	Lippitt	Root	Townsend
Cullom	McCumber	Sanders	Wetmore

NOT VOTING—48.

Bacon	Briggs	Clark, Wyo.	Curtis
Borah	Bryan	Crane	Dixon
Bradley	Catron	Culberson	du Pont
Brandegee	Clapp	Cummins	Fall
Foster	Kern	Paynter	Smith, Mich.
Gallinger	Lea	Penrose	Smith, S. C.
Gardner	Lodge	Percy	Stephenson
Guggenheim	McLean	Perkins	Stone
Jackson	Massey	Reed	Thomas
Johnston, Tex.	O'Gorman	Richardson	Warren
Jones	Overman	Simmons	Watson
Kenyon	Owen	Smith, Ga.	Williams

The PRESIDENT pro tempore. Less than a quorum has voted.

Mr. CRAWFORD. I ask for a call of the absentees.

The PRESIDENT pro tempore. The roll will be called under the rule.

The Secretary called the roll, and the following Senators answered to their names:

Bankhead	Dillingham	Lippitt	Poindexter
Bourne	du Pont	Lodge	Pomerene
Brandegee	Foster	McCumber	Sanders
Bristow	Gallinger	Martin, Va.	Simmons
Brown	Gardner	Martine, N. J.	Smith, Md.
Burnham	Gore	Myers	Smoot
Burton	Gronna	Nelson	Sutherland
Chamberlain	Heiskell	Newlands	Swanson
Chilton	Hitchcock	Oliver	Thomas
Clarke, Ark.	Johnson, Me.	Page	Thornton
Crawford	Johnston, Ala.	Paynter	Townsend
Cullom	Johnston, Tex.	Perkins	Wetmore
Cummins	La Follette	Perky	Works

The PRESIDENT pro tempore. Fifty-two Senators have answered to their names. A quorum of the Senate is present. The question is on the amendment submitted by the Senator from Nevada [Mr. NEWLANDS], upon which the Secretary will call the roll.

The Secretary proceeded to call the roll.

Mr. DU PONT (when his name was called). I have a general pair with the senior Senator from Texas [Mr. CULBERSON]. In his absence from the Chamber I withhold my vote.

Mr. FOSTER (when his name was called). I have a general pair with the junior Senator from Wyoming [Mr. CLARK], who is absent. I therefore withhold my vote.

The PRESIDENT pro tempore (when Mr. GALLINGER's name was called). The occupant of the chair is paired with the junior Senator from New York [Mr. O'GORMAN]; but he transfers that pair to the junior Senator from Nevada [Mr. MASSEY], and will vote "yea."

Mr. GARDNER (when his name was called). I again announce my pair with the Senator from Massachusetts [Mr. CRANE].

Mr. KERN (when his name was called). I again announce my general pair with the Senator from Kentucky [Mr. BRADLEY]. Not knowing how he would vote if he were present, I withhold my vote.

Mr. TOWNSEND (when Mr. JONES's name was called). I again desire to announce the necessary absence on business of the Senate of the Senator from Washington [Mr. JONES].

Mr. LIPPITT (when his name was called). I again announce the transfer of my pair with the senior Senator from Tennessee [Mr. LEA] to the junior Senator from Maryland [Mr. JACKSON] and will vote. I vote "nay."

Mr. LODGE (when his name was called). I have a general pair with the junior Senator from Georgia [Mr. SMITH]. I transfer that pair to the senior Senator from New Mexico [Mr. CATRON] and will vote. I vote "yea."

Mr. MYERS (when his name was called). I have a general pair with the Senator from Connecticut [Mr. MCLEAN]. I transfer that pair to the junior Senator from Florida [Mr. BRYAN] and will vote. I vote "yea."

Mr. PAYNTER (when his name was called). I again announce my pair with the senior Senator from Colorado [Mr. GUGGENHEIM]. In his absence I withhold my vote.

Mr. PERKINS (when his name was called). I again announce my general pair with the junior Senator from North Carolina [Mr. OVERMAN].

The roll call was concluded.

Mr. DILLINGHAM. I have a general pair with the Senator from South Carolina [Mr. TILLMAN]; but I am advised that on the previous roll call he voted as I did, and, therefore, I feel at liberty to vote, and will allow my vote in the negative to stand.

Mr. SIMMONS. I desire again to announce my pair with the Senator from Minnesota [Mr. CLAPP].

The result was announced—yeas 20, nays 29, as follows:

YEAS—20.

Ashurst	Gallinger	Martine, N. J.	Pomerene
Bankhead	Hitchcock	Myers	Shively
Brown	Johnson, Me.	Newlands	Smith, Ariz.
Burton	La Follette	Percy	Smith, Md.
Chamberlain	Lodge	Perky	Works

NAYS—29.

Bourne	Burnham	Cullom	Gamble
Brandegee	Clarke, Ark.	Cummins	Gore
Bristow	Crawford	Curtis	Gronna

Heiskell	Martin, Va.	Sanders	Townsend
Johnston, Ala.	Nelson	Smoot	Wetmore
Johnston, Tex.	Oliver	Sutherland	
Lippitt	Page	Swanson	
McCumber	Poindexter	Thornton	

NOT VOTING—46.

Bacon	Dixon	McLean	Smith, Ga.
Borah	du Pont	Massey	Smith, Mich.
Bradley	Fall	O'Gorman	Smith, S. C.
Briggs	Fletcher	Overman	Stephenson
Bryan	Foster	Owen	Stone
Catron	Gardner	Paynter	Thomas
Chilton	Guggenheim	Penrose	Tillman
Clapp	Jackson	Perkins	Warren
Clark, Wyo.	Jones	Reed	Watson
Crane	Kenyon	Richardson	Williams
Culberson	Kern	Root	
Dillingham	Lea	Simmons	

So Mr. NEWLAND'S amendment was rejected.

The bill was ordered to a third reading, read the third time, and passed.

Mr. CRAWFORD. Mr. President, the omnibus claims bill, just passed, has been amended so radically that there is not the slightest doubt that the House will reject the amendments and ask for a conference. To save time—and I understand it is not without precedent—I move that the Senate request a conference with the House of Representatives upon its amendments, the conferees on the part of the Senate to be appointed by the Chair.

The motion was agreed to; and the President pro tempore appointed Mr. CRAWFORD, Mr. TOWNSEND, and Mr. BRYAN the conferees on the part of the Senate.

CONSTRUCTORS OF THE BATTLESHIP "INDIANA."

Mr. CRAWFORD. Mr. President, I move that the Senate proceed to the consideration of the bill (S. 4840) to carry into effect the judgment of the Court of Claims in favor of the contractors for building the U. S. battleship *Indiana*, with a view to its indefinite postponement. It is accompanied by an adverse report from the Committee on Claims.

The motion was agreed to.

The PRESIDENT pro tempore. The question is upon the indefinite postponement of the bill.

Mr. CRAWFORD. Mr. President, on that question I desire to be heard.

Mr. SMOOT. Mr. President——

Mr. CRAWFORD. Does the Senator from Utah desire to submit a statement?

Mr. SMOOT. Yes; I desire to submit a statement.

Mr. CRAWFORD. I yield to the Senator for that purpose.

Mr. SMOOT. Mr. President, in 1908 a bill identical with this passed the Senate, upon a favorable report from the Committee on Claims. At that time it was referred to me as a subcommittee, and I made a favorable report. When the report was made at this session of Congress I was not at the meeting that authorized the report, and I claim no courtesy because of that fact. I received a letter from a party in New York asking me if I had changed my views upon this particular bill, and among other things asking me if not to let him know. He inclosed a copy of the report that I made on February 17, 1908.

I wish to say to the Senate that at that time I went into the claim very thoroughly, as I thought. I had the contract before me. I secured all the information that I could from the Court of Claims. I submitted a favorable report on the bill. The bill under consideration is a claim by the builders of the battleship *Indiana*, by which they are seeking reimbursement of the expenses to which they were put for the care, maintenance, preservation, insurance, and wharfage during a delay or two years after the expiration of the contract period, brought about by the failure of the United States to furnish them with the armor "in the time and in the order necessary to carry on the work properly." This has been agreed to not only by the department and the Secretary of the Navy, but the Senators will find in the report that I made a statement from each and every one of the parties that had anything to do with the contract and building of the battleship *Indiana*.

The Court of Claims, after a protracted trial, found that the necessary and reasonable cost during this delay, which they found was solely and entirely due to the fault of the United States, amounted to $177,823.55; but on account of a release given on May 10, 1894, at the time of an advance payment by which the builders agreed to waive so much of the claim as accrued prior to that date, the court allowed only the expenses incurred after that date, for a period of one year, six months, and nine days, and gave judgment for the sum of $135,560. In the report you will see these findings set out in detail.

The case was appealed to the Supreme Court, and that court reversed the judgment upon the sole ground that a final receipt and release given May 19, 1896, upon the payment to the builders of the balance of the contract price, viz, $41,132.80, was intended by the parties to be a final settlement of the present claim, which the Court of Claims found amounted to $177,823.55 additional. The equities were not considered by the Supreme Court, as fully appears in the correspondence between Mr. Justice Brewer, who delivered the opinion, and one of the counsel for the company. Of course I included a copy of that letter in my report.

The builders now ask that Congress, upon equitable grounds, shall reimburse them for these expenses, and they file in support of their petition the affidavits of the ex-Secretary of the Navy, Gen. Tracy; his assistants, Admiral Hichborn, Chief of the Bureau of Construction, and ex-Naval Constructor Nixon, who designed the vessel, being all the Government officers that had any part in the preparation of the contract; of ex-Secretary Herbert, who took the receipt, and Mr. Charles H. Cramp, president of the company, who signed both contract and receipt, each and all unanimously declaring in specific terms that it was never the intent of either of the parties to the contract by the giving or accepting of the receipt to in any way waive, bar, or settle the claim now presented.

This evidence was not before the Supreme Court, and the facts now presented differ in this material respect from the case as presented to that court. The delays in furnishing the armor were caused by the praiseworthy desire of Secretary Tracy to obtain for these new vessels of war the most invulnerable armor that it was possible to procure. At that time the subject of armor plate was in its infancy, and new processes of its manufacture were being devised and presented to the department for adoption. A series of exhaustive tests and experiments were made, which consumed most of the contract period, and it was not until February, 1893, that the Secretary finally adopted the nickel-steel harveyized armor, and that surpassed all armor in any of the navies of the world. These delays had a similar effect upon the builders of the *Oregon*, *Maine*, *Terror*, and *Texas*, and these were the only vessels that were delayed from this cause aside from the *Indiana* and *Massachusetts*, built by the Cramp Co. The Richmond Locomotive Works, builders of the machinery for the *Texas*, and N. F. Palmer & Co. (the Quintard Iron Works), builders of the machinery of the *Maine*, have both been reimbursed by special acts of Congress on the recommendation of Secretaries Herbert, Morton, and Moody—notwithstanding they signed precisely the same final receipts and releases.

The Pneumatic Gun Carriage Co., builders of the *Terror*, recovered judgment in the Court of Claims, notwithstanding they signed the identical form of final receipt and release, that court holding, as it did in the *Indiana* case, that it did not relate to this class of claims, and Attorney General Griggs acquiesced in that decision and declined to appeal the case, and that company was paid.

I do not want to take the time of the Senate to go into all of the details, but I simply wanted to tell the Senate why I made the favorable report upon this claim. It was not on account of any lack of endeavor on the part of the Cramp people to finish the *Indiana* on time that the loss to the company occurred, as the Secretary of the Navy states, not only by letter, but by a statement made under oath. All parties concerned recommend that this claim be paid, because it was no fault of the company that a loss occurred.

I will take it for granted that there is not a Senator who knows my record upon the Claims Committee who does not know that I am not in favor of paying claims against the Government unless I find that there is some good reason for doing so. I am not going to go into any lengthy discussion of this matter. The committee reported adversely upon the claim, and I simply make this statement now to place myself right, having been asked as to whether or not I had changed my views upon this particular claim.

I do not think there is any necessity for my saying any more. The builders of all the other vessels that were built under the same conditions and that were held up for the same identical reasons have been reimbursed. If the Senate of the United States does not desire to reimburse this company for the same kind of loss that all of the other companies sustained and have been paid for, I have not another word to say in relation to the matter.

Mr. CRAWFORD. Mr. President, in view of the rather peculiar situation of this claim, I am glad the Senator made his statement. I also wish to make a statement, because I want it to be a matter of record. It is not very long.

The Committee on Claims made an adverse report on this bill for the relief of William Cramp & Sons on March 28, 1912. Under the regular procedure it would have been indefinitely

postponed at once. At the time the adverse report was presented, however, an amendment had been proposed by the Senator from Pennsylvania and referred to the Committee on Claims, by which he sought to amend what is known as the omnibus claims bill—which at that time was being considered by the same committee—by inserting this claim in that bill. For that reason I asked that this bill go on the calendar, so that the proposed amendment and the bill might be considered together in connection with the adverse report when the omnibus claims bill came before the Senate.

The committee having reported the bill adversely, declined to accept the proposed amendment, of course. During all the time we were considering the omnibus claims bill here this amendment was not presented by the Senator from Pennsylvania, nor by any other Senator. The Senator who proposed it told me that he did not intend to press it.

After the omnibus claims bill had passed the Senate, I assumed, as a matter of course, that this bill, upon my suggestion and upon the adverse report, would be indefinitely postponed. This adverse report has been here for 10 months. No minority views have been presented. An amendment proposing the same relief has been abandoned; and it is difficult to understand why at this late date there should be a disposition to depart from the usual practice of indefinite postponement in such cases.

The Senator from Utah the other day asked that the bill be placed under Rule IX, which would indicate that he preferred to have it die there rather than to have the Senate act in the usual way by indefinitely postponing it upon the adverse report. In fact, sir, I have discovered several attempts to get that adverse report out of the way in some manner other than the usual one, of either taking issue with it by presenting minority views or having the bill indefinitely postponed upon it.

Very soon after the adverse report was filed a gentleman who was actively engaged in lobbying for the bill came into my committee room and asked the clerk of the committee to show him the records and minutes kept of the proceedings, so that he might, if possible, make the claim that a quorum of the committee was not present when the report was ordered. He did this in my absence and without so much as asking my leave. It looked like impudence and effrontery to me for a lobbyist to go to a committee room and in the absence of the chairman attempt to secure evidence upon which to impeach the committee's report.

Failing in that, I next discovered that this same gentleman was attempting to canvass the individual members of the committee and to secure their signatures to a written request that this adverse report be withdrawn. I am glad to say that he did not get very far with that; but it was a most extraordinary proceeding.

It seems to me there is a manifest desire to deal with this adverse report in some unusual way instead of following the regular procedure. Under the circumstances, I think it is my duty to lay before the Senate briefly the facts disclosed in the report.

The William Cramp & Sons Ship and Engine Building Co. entered into a written contract with the Government on November 10, 1890, in which it undertook, for the sum of $3,020,000, at its own risk and expense, to construct a coast-line battleship, afterwards known as the *Indiana*. Certain portions of the armor were to be furnished by the Government and delivered at the Cramp shipyards in the order and at the times required to carry on the work properly. The vessel was to be completed within three years from the date of the contract, and heavy penalties were provided in case of delays beyond this period for which the shipbuilding company was to blame. On the other hand, it was clearly provided when the delay was caused by the fault of the Government that the builder should be relieved of penalties and entitled to a corresponding extension of the period prescribed for the completion of the vessel. The contract was carefully balanced in this as in all other particulars. The expenses incurred in the preparations for trial tests and of the preliminary trial tests of the vessel were to be borne by the shipbuilder, but the expense of the final trial before acceptance, if successful, was to be paid by the Government. Payment was to be made by the Government in 30 equal installments as the work progressed, with a reservation of 10 per cent from each installment. The last three installments and the reservations, except the sum of $60,000, were to be made after the preliminary trial test if approved. The $60,000 was not to be paid until the final trial and acceptance of the vessel, and then only upon the execution by the shipbuilder of a full and complete release of all claims of any kind or description under or by virtue of the contract.

The contract is clear and unequivocal throughout. There is no ambiguity or uncertainty in it. There is nothing in it calling for oral interpretation or explanation. It speaks plainly. It is an all-sufficient witness as to its meaning, and parol testimony to vary or explain its clear meaning would not be admitted in any court in the absence of any charge of fraud, duress, or mistake.

Because the Government was unable to furnish the armor when needed the completion of the vessel was delayed about two years. This delay caused the parties on May 10, 1894, to execute a written memorandum modifying the original contract in one respect only, but providing that in all other respects it should remain unchanged and unaffected in its legal effect. The agreement of modification was to this effect:

It was agreed that the payment of the last three installments of the contract price and the reservations of 10 per cent in previous payments should not be withheld until after the preliminary trial and conditional acceptance of the vessel, but that the Government would pay the contractor at once these installments and reservations, retaining only a sufficient sum to cover the special reserve of $60,000, the cost of all unfinished work, all deductions likely to be made on account of deficiencies in speed, and other contingencies that might arise. In such event the building company was to give the Government a bond with approved security for indemnity against loss or injury by reason of the payment. The shipbuilding company, in consideration of these advance payments, released the Government from every claim for loss or damage occasioned by its failure to furnish armor as contemplated in the original agreement.

The ship was finally completed and accepted on the 18th of May, 1896, at which time the Government paid the Cramp Shipbuilding Co. the reserved balance of the $60,000, and received from that company a release forever discharging and releasing the United States of and from "all and all manner of debts, dues, sums, and sums of money, accounts, reckonings, claims, and demands whatsoever, in law or in equity, for or by reason of or on account of the construction of said vessel under the contract aforesaid."

This release was signed and sealed by Charles H. Cramp, president of the company, and delivered to the Department of the Navy. There was nothing unconscionable in this contract. It is not claimed that, notwithstanding the delay, the Cramp Shipbuilding Co. did not make a good profit in the performance of it. It is not claimed that it was deceived by any misrepresentations into making it. No action to re-form the contract or be relieved from its terms because of fraud, mistake, or duress was ever begun in any court of equity. No proceeding of that kind was ever hinted at or suggested. At the time of final acceptance of the vessel and payment of the balance due the Cramp Shipbuilding Co. executed this full and sweeping release, without asserting or suggesting that it had sustained damages. It received the money, executed the release, and delivered over the vessel to the Government without making any such claim. These things were done under and within the clear provisions of the contract itself.

But after a whole year and a quarter had passed this company began a suit against the Government in the Court of Claims.

It was not referred there by Congress. They began an original suit there in which the company asked judgment for the sum of $480,231.

To show the character of this claim, I wish to call the attention of the Senate to some of the items specified in the petition which it filed:

It says its business was so large that in order to obtain more room for materials for the vessels under construction, of which the *Indiana* was one, it purchased additional ground at a cost of $121,756.03 and erected thereon shops in which to handle material at an additional cost of $3,000, and it wants to be reimbursed the sums it thus paid out for enlarging its own plant. It apportioned and charged up to this vessel a proportionate share of the value of the use of its yard, its tools, and machinery, the cost of superintendence, and the general upkeep of its yard for the period of two years, for which it asked $72,000. It asked $48,000 more for the care and protection of the vessel for two years; $23,360 more for wharfage, which is the amount a merchant vessel of the same tonnage would have had to pay in the port of Philadelphia while stopping there on a commercial voyage; it asked to be reimbursed over $5,000 for tug service not incurred in construction of the vessel but expended for its own benefit and convenience independently of the construction of this vessel; it wanted pay for dredging the basin occupied by the vessel and repayment of the insurance it had paid on the vessel for the period of two years immediately preceding the acceptance by the Government. It took the contract to build this vessel at its own risk and responsibility.

The Court of Claims found in its favor, by what seemed to me a very strange sort of computation, for $135,560, and entered judgment against the Government for that amount from which an appeal was taken to the Supreme Court of the United States, which reversed the judgment on the merits and remanded the case with instructions to enter a judgment on the findings for the Government.

Mr. Justice Brewer delivered the opinion of the court, which was unanimous, and the court says, among other things:

To rightly understand the scope of this release we must consider the conditions of the contract and especially the clause in it which calls for a release. The contract was a large one, the price to be paid for the work and material being over $3,000,000, and the contract was evidently designed to cover all contingencies. Provision was made for changes in the specifications, for penalties on account of delays of the contractor, deductions in price on certain conditions, approval of the work by the Secretary of the Navy, forfeiture of the contract, with authority to the Secretary to complete the vessel. The last paragraph contains the stipulations as to the amounts and times of payment with authority for increase of the gross amount upon certain conditions. The sixth clause of this paragraph makes special provision for the last payment, to be made—

The court quotes there the contract—

"when all the conditions, covenants, and provisions of said contract shall have been performed and fulfilled by and on the part of the party of the first part" and "on the execution of a final release to the United States in such form as shall be approved by the Secretary of the Navy, of all claims of any kind or description under or by virtue of said contract." Evidently the parties contemplated and specially provided by this stipulation that the whole matter of the contract should be ended at the time of the final release and the last payment. That which was to be released was "all claims of any kind or description under or by virtue of said contract." Manifestly included within this was every claim arising not merely from a change in the specifications, but also growing out of the delay caused by the Government. The language is not alone "claims under," but "claims by virtue" of the contract—"claims of any kind or description." All the claims for which allowances were made in the judgment of the Court of Claims come within one or the other of these clauses. It may be that, strictly speaking, they were not claims under the contract, but they were clearly claims by virtue of the contract. Without it no such claims could have arisen. Now, it having been provided in advance that the contract should be closed up by the execution of a release of this kind it can not be that the company, when it signed the release, understood that some different kind of release was contemplated. It must have understood that it was the release required by the contract—a release intended to be of all claims of any kind or description under or by virtue of the contract, and that the form of words which the Secretary had approved was used to express that purpose. With that release stipulated for in the contract the company signed the instrument of May 18, 1896, which in terms purported to "remise, release, and forever discharge the United States of and from all manner of debts, dues, sum and sums of money, accounts, reckonings, claims, and demands whatsoever in law or in equity, for or by reason of or on account of the construction of said vessel under the contract aforesaid." Now, whatever limitation may be placed upon the words "for" or "on account of" the construction of the provision for the release of all claims and demands whatsoever, "by reason of the construction of the vessel under the contract aforesaid," is a recognition of the contract, and includes claims which arise by reason of the construction of the vessel under it. "By reason of" may well be considered as equivalent to "by virtue of." It is only by reason of the performance of the contract in the construction of the vessel that these claims arise. But for the contract and the construction of the vessel under it there would be no such claims. No payment of moneys not due is necessary to sustain this release. It is under seal, and the contract is itself full consideration. As of significance it must be borne in mind that the release referred specifically to the provisons in the sixth paragraph of the nineteenth clause of the contract which provided for the character of the release. Indeed, the general language of the release itself and the number of words of description in it show that it was the intent of the Secretary of the Navy to have a final closing of all matters arising under or by virtue of the contract.

Stipulations of this kind are not to be shorn of their efficiency by any narrow, technical, and close construction. The general language "all and all manner of debts," etc., indicates an intent to make an ending of every matter arising under or by virtue of the contract. If parties intend to leave some things open and unsettled their intent so to do should be made manifest. Here was a contract involving $3,000,000, and after the work was done, the vessel delivered and accepted and this release entered, claims are presented amounting to over $500,000. Surely the parties never intended to leave such a bulk of unsettled matters. As bearing upon this matter, it may be noticed that while the release was signed and the contract between the building company and the Government closed on May 18, 1896, this action was not brought until August 10, 1897, nearly a year and a quarter thereafter.

We are of opinion that the parties by the release of May 18, 1896, which was executed in performance of the requirements of the original contract, settled all disputes between the parties as to the claims sued upon.

The judgment of the Court of Claims is reversed and the case remanded with instructions to enter a judgment on the findings for the defendant.

Now, Mr. President, this powerful claimant voluntarily chose the forum in which to have the merits of its claim adjudicated. It brought the suit which terminated in this adverse decision by the highest judicial tribunal in the land. That court construed the contract and held that the claim could not be sustained under the law of the land. Ex parte affidavits made by Admiral Hichborn, Charles H. Cramp, and Lewis Nixon, who at the time of the building of the vessel was an employee of the Cramp Shipbuilding Co., and an affidavit of ex-Secretary Herbert have been obtained since the Supreme Court rendered the final decision in the case to support a contention that the contract meant something different, or that the parties to it had a different intention in agreeing to it than its clear and unequivocal language shows, and that it was not intended to mean what it plainly says and what the Supreme Court says it means. But these affidavits are utterly worthless so far as they are intended to vary the plain terms of this long since executed contract by parole. Every lawyer knows that. The claim amounts to nothing more than a bounty or donation, and why should Congress give it to these claimants? What private suitor who had failed upon the merits to obtain a judgment would ask the successful defendant to make him a present of the amount in controversy?

This shipbuilding company has enjoyed a special privilege under the navigation laws of this country for years.

Mr. President, the present occupant of the chair will remember this incident. A few months ago an American citizen, who had purchased a foreign-built ship, appeared before the Senate Committee on Commerce in behalf of a bill which would admit this vessel to American registry. He was to expend a substantial sum of money in American shipyards in rebuilding and repairing this secondhand vessel. Nevertheless, a representative of this powerful shipbuilding company appeared and protested against the registry of this foreign-built vessel. I say it has enjoyed, and does now enjoy, a special privilege which makes the cost of building vessels in American shipyards 100 per cent higher than the same vessels would cost in foreign shipyards—a privilege which has made it impossible to build and maintain American vessels in over-seas trade. On top of this special privilege it asks for this gratuity, for it is nothing more than a donation.

Why should it receive such a favor? It is said that at other times, in connection with the construction of other vessels, this company and other shipbuilders have received donations of this kind. If that be true, there was never a better time than now to stop the bad practice. If instead of being a great and powerful shipbuilding company this claimant was a poor and obscure citizen, his claim would not be considered for a moment.

I call to mind many really pathetic cases of humble claimants who have had claims pending before Congress for years, in which there is no legal basis for the claims, but where there is much in the situation of the parties and the circumstances surrounding them to call forth the deepest sympathy and touch any heart that is human. I have in my mind now a helpless woman of culture and refinement, whose husband, while serving his country abroad as a consul, met with serious losses occasioned by the fluctuation and depreciation of the rupees in which his salary was paid; a splendid man who, in entertaining visiting Americans who came to Bombay, used funds which he had received as fees and perquisites—according to a custom which had previously prevailed—but for which he was required to account. To save his bondsmen from loss he returned to the United States and sold all the property he had in the world, including his homestead. He died penniless and of a broken heart. The widow, who survived him, presented a claim for the amount he had lost through the depreciation of the money paid to him as a salary. She has told her pathetic story over and over again to members of the committee and other Senators—session after session, year after year, for many years. She is now an old woman whose bodily and mental health is fading away under the long strain, the disappointment, the long-deferred hope, and sickness of heart. Her sweet face and thin figure haunt the corridors of the Senate Office Building year after year. I would be glad to see her receive something, even though it be a bounty or donation, but she has never been able to get a majority of the committee to authorize a favorable report of her claim. We shall miss her one of these days, when, with a broken heart, she shall have gone to join her broken-hearted husband in the grave.

Ah, Mr. President, shall we pass the cries of a poor woman like this unheeded and yet give ear to a demand like this of the Cramp Shipbuilding Co., because it is great and powerful and can secure the services of lawyers and lobbyists and recommendations from men of high station and influence? Shall we refuse to give to a beautiful, sweet-faced, broken-hearted woman a pittance of $5,000 and then grant to this great company a bounty or donation of $135,000? I do not believe the Senate will do such a thing as that.

The Committee on Claims was not in favor of doing it, and made this report.

I insist on the indefinite postponement of this bill.

Special privilege leads to just such unjust discriminations as this, and I say to you that the American people are determined to abolish special privilege. This is a good place to begin.

I ask for a vote on the motion to indefinitely postpone the bill.

Mr. SMOOT. Mr. President, just a word. I agree with the Senator that the contract was specific, and I so stated in the opening. It was found by the Court of Claims that it was specific, and the bill does not provide for any of the items mentioned by the Senator, with the exception of those that were found to be due the company by the Court of Claims.

Mr. CRAWFORD. They are all set forth in the findings of the Court of Claims and in the record, and they are taken from the petition which the claimant had filed.

Mr. SMOOT. I said the bill does not include any item, with the exception of those items that the Court of Claims found was due the company.

Mr. CRAWFORD. Will the Senator permit me there to make just a comment in three words?

Mr. SMOOT. Certainly.

Mr. CRAWFORD. The title of this bill contains a falsehood. The title of the bill purports to give effect to the judgment of the Court of Claims in favor of the contractors for building the United States battleship *Indiana*, when at the time the bill was introduced there were no such findings in its favor, because they had been reversed by the decision of the Supreme Court of the United States, and until we went in and found that decision of the Supreme Court reversing those findings the Senate might have been led, from the title of the bill, into a belief that it was resting upon the valid findings and judgment of the Court of Claims.

Mr. SMOOT. I simply want to state again that the bill provides for one hundred and thirty-five thousand and some odd dollars, and that was the amount the Court of Claims found due the Cramp Co., and the items are stated in detail by the Court of Claims in the findings.

I admit, as I stated before, that the Supreme Court of the United States reversed the judgment of the Court of Claims. I did, however, refer to a letter from Justice Brewer, who wrote the opinion, in relation to what the reasons of the Supreme Court were in reversing the decision.

Mr. CRAWFORD. Will the Senator permit me?

Mr. SMOOT. Certainly.

Mr. CRAWFORD. The letter from Mr. Justice Brewer was drawn out by soliciting him in a letter written to him by the attorney of record in the Cramp ship case, who was disappointed over his loss of the decision in the Supreme Court.

Mr. SMOOT. I do not know what drew it out. I can not say. But I say this copy of the letter is in the report, and I made my report upon the bill based upon all the information that I could receive from the Navy Department officials.

I wish to say to the Senator that it makes no difference to me who the person is or what company it is that tries to collect a claim from the Government of the United States, they all stand upon the same footing, whether it is a small claim or whether it is a large claim. If it is a just claim it should be paid, and if it is an unjust claim it ought not to be paid.

Mr. President, without taking the time of the Senate further, I ask that, in connection with what I have just stated, the report submitted by me in 1908 be printed as a part of my remarks. That report gives a complete history of this case from the standpoint of the Navy Department officials. As I have already said, this company is only asking the same treatment the Government has already accorded to other concerns which found themselves in exactly the same condition. They were all paid by the Government, with the exception of Cramp & Sons.

The PRESIDING OFFICER (Mr. NELSON in the chair). Without objection, the report referred to will be printed in the RECORD.

The report referred to is as follows:

Mr. SMOOT, from the Committee on Claims, submitted the following report, to accompany S. 3126:

The Committee on Claims, to whom was referred Senate bill 3126, have had the same under consideration and beg leave to submit the following report:

This is a claim by the builders of the battleship *Indiana* seeking reimbursement of the expenses they were put to for the care, maintenance, preservation, insurance, and wharfage during a delay of two years after the expiration of the contract period, brought about by the failure of the United States to furnish them with the armor "in the time and in the order necessary to carry on the work properly," as it had covenanted and agreed to do. The Court of Claims, after a protracted trial, found that the necessary and reasonable costs during this delay, which they found was solely and entirely due to the fault of the United States, amounted to $177,823.55, but on account of a release given on May 10, 1894, at the time of an advance payment, by which the builders agreed to waive so much of the claim as accrued prior to that date, the court allowed only the expenses incurred after that date for a period of one year six months and nine days, and gave judgment for the sum of $135,560. (See findings of Court of Claims accompanying this report marked "Exhibit A.") The case was appealed to the Supreme Court, and that court reversed the judgment upon the sole ground that a final receipt and release given May 19, 1896, upon the payment to the builders of the balance of the contract price, viz, $41,132.80, was intended by the parties to be a final settlement of the present claim, which the Court of Claims found amounted to $177,823.55 additional. The equities were not considered by that court, as fully appears in the correspondence between Mr. Justice Brewer, who delivered the opinion, and one of the counsel for the company, accompanying this report, marked "Exhibit B."

The builders now ask that Congress, upon equitable grounds, shall reimburse them for these expenses, and they file in support of their petition the affidavits of ex-Secretary of the Navy, Gen. Tracy; his assistants, Admiral Hichborn, Chief of the Bureau of Construction, and ex-Naval Constructor Nixon, who designed the vessel, being all the Government officers that had any part in the preparation of the contract; of ex-Secretary Herbert, who took the receipt, and Mr. Charles H. Cramp, president of the company, who signed both contract and receipt, each and all unanimously declaring in specific terms that it was never the intent of either of the parties to the contract, by the giving or accepting of the receipt, to in any way waive, bar, or settle the claim now presented. (See Exhibits C, D, E, F, and G herewith.)

This evidence was not before the Supreme Court, and the facts now presented differ in this material respect from the case as presented to that court. The delays in furnishing the armor were caused by the praiseworthy desire of Secretary Tracy to obtain for these new vessels of war the most invulnerable armor that it was possible to procure. At that time the subject of armor plate was in its infancy and new processes of its manufacture were being devised and presented to the department for adoption. A series of exhaustive tests and experiments were made, which consumed most of the contract period, and it was not until February, 1893, that the Secretary finally adopted the nickel-steel harveyized armor, and that surpassed all armor in any of the navies of the world. These delays had a similar effect upon the builders of the *Oregon*, *Maine*, *Terror*, and *Texas*, and these were the only vessels that were delayed from this cause aside from the *Indiana* and *Massachusetts*, built by the Cramp Co. The Richmond Locomotive Works, builders of the machinery for the *Texas*, and N. F. Palmer & Co. (the Quintard Iron Works), builders of the machinery of the *Maine*, have both been reimbursed by special acts of Congress on the recommendation of Secretaries Herbert, Morton, and Moody—notwithstanding they signed precisely the same final receipts and releases. (See Richmond case, 30 Stat., 1431; Palmer case, 33 Stat., 1397.)

The Pneumatic Gun Cariage Co., builders of the *Terror*, recovered judgment in the Court of Claims, notwithstanding they signed the identical form of final receipt and release, that court holding, as it did in the *Indiana* case, that it did not relate to this class of claims, and Attorney General Griggs acquiesced in that decision and declined to appeal the case, and that company was paid. (36 C. C. Rep., p. 71.) The Union Iron Works, by a supplemental contract relieved the United States of its obligation to take the vessel without armor, as Article III of the contract provided, and in lieu thereof accepted a contract with Secretary Tracy by which the United States was to pay these expenses monthly as the delays occurred, and that company was so paid. (See affidavit ex-Secretary Tracy, Exhibit C.) The Cramp Co. relied upon the obligation of the United States to take the vessel without armor, under Article III, and the Secretary concurred in this view of the obligation of the United States and went so far as to detail officers to supervise the erection of temporary facilities to take the vessel to sea and weight it down to its normal draft, which was done at an additional expense to the builders of $17,000 (see twelfth findings, Court of Claims, Exhibit A), but on May 1, 1894, he arbitrarily refused to permit a trial trip to be made because, in his judgment, the interests of the United States would be best subserved by delaying the trial trip until the vessel was fully completed, with all the armor on.

It is shown by the affidavits of Admiral Hichborn (Exhibit D) and Secretary Tracy (Exhibit C) that the United States had no navy yard at which these vessels could be taken care of. It may be that the company had the right to cut the vessel loose and let her float down the Delaware River to its destruction, but the United States then owed the company upward of $500,000 for work already performed and unpaid for, and the United States had already paid $2,300,000 on account of its construction, and to save this amount of Government property from destruction the company yielded to the request of the Secretary and cared for, preserved, and maintained the vessel at their yard for an additional one year, six months, and nine days, at an expense of $135,560, as found by the Court of Claims. Your committee can not believe that the company should now be punished for the performance of this most praiseworthy and patriotic action, nor should the technical receipt be held to prevail over the conspicuous equities of the case. It may be true that a contractor should be careful in the wording of papers that he signs, but if through want of care or inadvertence the receipt does not express the real intent of the parties to it, it would be extremely unfair, if not positively dishonest, for one of the parties to try to enforce it against the other contrary to the intent of both.

Your committee therefore report back Senate bill 3126 favorably and recommend that it do pass.

EXHIBIT A.

FINDINGS OF FACT BY THE COURT OF CLAIMS.

[Court of Claims. No. 20858. (Decided January 29, 1906.) The William Cramp & Sons Ship & Engine Building Co. v. The United States.]

This case having been heard by the Court of Claims, the court, upon the evidence, makes the following

FINDINGS OF FACT.

I. The claimant herein is a corporation incorporated under the laws of the State of Pennsylvania, and carries on the business of ship and engine building, with its yards and plant and works located in the city of Philadelphia, in said State.

II. On November 19, 1890, the claimant entered into a contract with the United States, through their Secretary of the Navy, whereby, in consideration of the sum of $3,063,000, to be paid as provided in said contract, it agreed to construct and complete within three years from said date as in said contract provided, a seagoing, coastline battleship, designated as No. 1, and subsequently named the *Indiana*, all in accordance with the specifications attached to and made a part of said contract, which contract, marked "Exhibit W. C. & S. No. 1," is annexed to and made a part of the petition herein.

III. Immediately after the making of said contract the claimant arranged and systematized a working program for the construction of said vessel by organizing its working force so as to cooperate with each

other in harmony on coordinate work, and to secure economy in the construction of the vessel within the contract time and to escape the penalties imposed thereby for delays. The claimant would have completed the vessel within the contract period if it had not been for the failure of the United States to furnish materials within the time and in the order to properly carry on the work, which by the terms of the contract they had agreed to furnish.

By reason of the failure of the defendants to furnish the materials, which by the third clause of the contract they had agreed to furnish, within the time and in the order as aforesaid, the completion of the vessel was delayed for two years beyond the contract period.

The armor to be furnished in accordance with said clause of the contract was obtained by the defendants from other contractors, who, without any fault on the part of the claimant, failed to complete the manufacture thereof in time for the defendants to deliver the same to the claimant as they had agreed to do.

The various kinds of armor, including the necessary bolts, nuts, etc., were delivered as follows:

Diagonal armor, beginning June 6, 1892, and ending July 3, 1892.

Casemate armor, beginning March 16, 1893, and ending May 1, 1893.

Conning tower tube, May 1, 1893.

Barbette armor, beginning July 10, 1893, and ending September 23, 1893.

Sponson armor, beginning December 2, 1893, and ending March 24, 1894.

Ammunition tubes, beginning April 24, 1894, and ending May 22, 1894.

Eight-inch turret, beginning September 22, 1894, and ending December 7, 1894.

Conning tower shield and covers, complete, October 5, 1894.

Side armor, beginning August 13, 1894, and ending August 6, 1895.

Thirteen-inch turrets, beginning May 16, 1895, and ending September 5, 1895.

IV. On December 4, 1895, and after the completion and delivery of the vessel at the time hereinafter stated, the Secretary of the Navy decided that the cause of delay for the period of two years in the completion of the vessel was due to the failure of the United States to furnish the claimant the materials contracted to be furnished by them within the time and in the order to properly carry on the work; and for that reason the time within which to complete the vessel, and thereby release the claimant from the penalties provided for in the nineteenth paragraph of the contract, was on said date extended by the Secretary of the Navy a corresponding length of time, to wit, to November 19, 1895, on which latter date the vessel so contracted for was completed and delivered.

V. On May 10, 1894, before the Secretary of the Navy had finally decided the cause of delay, as aforesaid, and before there had been a preliminary or conditional acceptance of the vessel, owing to the failure of the defendants to furnish, in the order required, the material which they had agreed to furnish, the contract was modified, which modification is made a part of the petition herein and marked "Exhibit W. C. & S. No. 2," by the terms of which modification the defendants agreed to pay the claimant a portion of the reservations of installments, which under the original contract were not payable, as therein set forth, until after a preliminary or conditional acceptance of the vessel; and $234,830, being the amount of the reservations of the first 23 out of the 27 installments earned by the claimant, were paid on or about June 20, 1894. The claimant, as provided in the modification aforesaid, furnished security against any loss to the defendants on account of such payment, but no demand for any refund was ever made upon it. In consideration of the payment aforesaid, the claimant, as recited in said modification, released the defendants "from all and every claim for loss or damage hitherto sustained by reason of any failure on the part of the" defendants to comply with its contract, "or on account of any delay hitherto occasioned" by them.

To the modification of the contract and the release as aforesaid the claimant at the time does not appear to have made objection or protest.

VI. On May 18, 1896, after the completion and delivery of the vessel, in accordance with the sixth paragraph of the nineteenth clause of the contract, the balance of the money due thereunder, but withheld in accordance therewith until the final acceptance of the vessel, was paid to the claimant and the same was accepted and a release and receipt was executed therefor by it in the terms following:

"Whereas by the eleventh clause of the contract dated November 19, 1890, by and between the William Cramp & Sons Ship & Engine Building Co., a corporation created under the laws of the State of Pennsylvania, and doing business at Philadelphia, in said State, represented by the president of said company, party of the first part, and the United States, represented by the Secretary of the Navy, party of the second part, for the construction of a seagoing coast-line battleship of about 10,000 tons displacement, which, for the purpose of said contract is designated and known as 'coast-line battleship No. 1,' it is agreed that a special reserve of $60,000 shall be held until the vessel shall have been finally tried; provided that such final trial shall take place within five months from and after the date of the preliminary or the conditional acceptance of the vessel; and

"Whereas by the sixth paragraph of the nineteenth clause of said contract it is further provided that when all the conditions, covenants, and provisions of said contract shall have been performed and fulfilled by and on the part of the party of the first part, said party of the first part shall be entitled, within 10 days after the filing and acceptance of its claim, to receive the said special reserve or so much thereof as it may be entitled to on the execution of a final release to the United States in such form as shall be approved by the Secretary of the Navy of all claims of any kind or description under or by virtue of said contract; and

"Whereas the final trial of said vessel was completed on the 11th day of April, 1896; and

"Whereas all the conditions, covenants, and provisions of said contract have been performed and fulfilled by and on the part of the party of the first part:

"Now, therefore, in consideration of the premises, the sum of $41,132.86, the balance of the aforesaid special reserve ($60,000), to which the party of the first part is entitled, being to me in hand paid by the United States, represented by the Secretary of the Navy, the receipt whereof is hereby acknowledged, the William Cramp & Sons Ship & Engine Building Co., represented by me, Charles H. Cramp, president of said corporation, does hereby for itself and its successors and assigns, and its legal representatives, remise, release, and forever discharge the United States of and from all and all manner of debts, dues, sums and sums of money, accounts, reckonings, claims, and demands whatsoever, in law or in equity, for or by reason of, or on account of, the construction of said vessel under the contract aforesaid.

"In witness whereof I have hereunto set my hand and affixed the seal of the William Cramp & Sons Ship & Engine Building Co. this 18th day of May, A. D. 1896.

"[SEAL.] "CHAS. H. CRAMP, *President.*

"Attest:

"JOHN DOUGHERTY, *Secretary.*"

to the giving of which release and receipt the claimant does not appear at the time to have objected or protested.

VII. Before and during the period of delay, as aforesaid, the claimant's business was so large that in order to obtain more room for materials for the vessels under construction at the claimant's yard, of which the *Indiana* was one, it purchased additional ground at a cost of $121,756.03, and erected thereon temporary shops, in which to handle and rehandle material, at an additional cost of $3,000. It is not shown that the purchase of said real estate was necessary to the construction of the *Indiana*, or that any portion of the outlay therefor was attributable to the vessel during the period of delay.

VIII. After the expiration of the contract period and during the two years that the vessel was delayed in completion, as hereinbefore found, the reasonable value for the use of the claimant's yard, machinery, and for superintendence in the construction of the vessel, including the general upkeep of the yard chargeable to the *Indiana*, was $3,000 per month, or $72,000 for the two years' delay.

The proportion of said expenses chargeable to the *Indiana* from May 10, 1894, the date of the release set forth in Finding VI, being for one year six months and nine days, was $54,887.67.

IX. For the proper care and protection of the vessel during the two years' delay, including expense of cleaning the bottom, furnishing material and painting, temporary awnings and tents over caps left for the introduction of turrets, additional scaling to remove rust before painting, electric lighting, keeping up steam to prevent freezing of valves, wetting down decks, going over machinery, and keeping vessel free from snow, dust, ice, and débris, the reasonable cost was $48,000.

The proportion of said expenses for the period from May 10, 1894, being for one year six months and nine days, was $36,591.78.

X. The customary rate of wharfage of merchant vessels at the port of Philadelphia during the time the *Indiana* was being constructed was 1 cent per net registered ton, and upon that basis, if allowed, the wharfage on the *Indiana*, with a net tonnage which we find was 3,203.58, during said two years' delay was $32 a day, or $23,360.

The proportion of expense during the period from May 10, 1894, being for one year six months and nine days, was $17,808, inclusive of the dredging of the basin or bed in which to accommodate the vessel.

The claimant also incurred an expense of $5,783 for tug service in removal of the vessel from time to time. Such expense is not shown to have been necessary to the construction of the vessel during the period of delay. It appears to have been for the benefit and convenience of the claimant.

XI. During the two years' delay the claimant was required to and did keep the vessel insured for the benefit and protection of the United States, and the reasonable cost thereof aggregated during said period the sum of $34,463.55.

The proportionate expense for the period from May 10, 1894, being one year six months and nine days, was $26,272.55.

XII. March 23, 1894, the claimant notified the Secretary of the Navy that the vessel, other than the fitting of the armor, had reached a stage of completion ready for an official trial and proposed to offer said vessel therefor between May 1 and 10 following.

Seven other vessels built by the claimant for the United States had been permitted to go on trial trips before their completion. The *Indiana* was the first battleship constructed, and before the armor was completed thereon the claimant proposed an official trial.

March 9, 1894, the Secretary of the Navy addressed to the claimant the following letter:

WASHINGTON, *March 9, 1894.*

GENTLEMEN: In view of the fact that the trial of the *Indiana* will take place at an early date, and as you are probably now making preparation therefor, your attention is invited to the tenth clause of the contract for the construction of that vessel, which provides that the expenses of a successful trial of the vessel shall be borne by the Government.

With a view to an expeditious settlement of the bill for the trial expenses of the vessel after the trial shall have taken place, the department has to-day directed Chief Engineer J. W. Thomson and Naval Constructor J. F. Hanscom, United States Navy, to inform themselves as to what expenses you incur in preparing the vessel for trial, on the trial, and in furnishing the supplies of all kinds to be used, in order that they may be able to report to the department after such examination, if any, as they may be required to make of your bill as to whether the items included therein are properly chargeable to the Government, and as to whether the prices charged therefor are proper and reasonable.

The department requests that you will confer with the above-named officers in regard to the expenses necessary to be incurred in the trial of the *Indiana* and afford them such information as will enable them to fully comply with the department's instructions, as above stated.

Very respectfully,

H. A. HERBERT,
Secretary of the Navy.

The WILLIAM CRAMP & SONS
SHIP & ENGINE BUILDING CO.,
Philadelphia, Pa.

The expense so incurred was verified by such officers and no objection was found to the amount thereof. But in the meantime the Secretary of the Navy was in doubt as to whether the vessel was ready for such official trial, and to ascertain that fact did, on April 12, 1894, appoint a board, consisting of three naval officers, to inquire into the matter.

The board made such inquiry, and on April 18, 1894, reported to the Secretary that the hull of the vessel was about eighty-four one-hundredths completed, and that but one-half of the armor had been fitted in place. The board unanimously reported that the vessel was not then and would not be by May 1, 1894, ready for the official trial trip in accordance with the tenth article of the contract, and that such trial should not, in the interest of the Government, take place until the vessel was fully completed and ready for delivery.

Upon that report the Secretary acted, refusing to give his approval to the proposed trial, and the same was not made.

If the claimant is entitled to recover the expense so incurred in the preparation for the preliminary trial of the vessel, the amount as verified by the officers of the Navy and which we find reasonable was $17,514.94.

XIII. The items of cost and expense set forth in the several findings herein, both upon the basis of two years' delay and of one year six months and nine days' delay, are as follows:

Finding.	Item.	Two years.	One year 6 months and 9 days.
VIII	Superintendence and upkeep of yard	$72,000.00	$54,887.67
IX	Protection of vessel, cleaning, painting, etc	48,000.00	36,591.78
X	Wharfage of vessel	23,300.00	17,808.00
XI	Insurance on vessel	34,463.55	26,272.55
		177,833.55	135,560.00

CONCLUSION OF LAW.

Upon the foregoing findings of fact the court decides as a conclusion of law that the claimant is entitled to recover against the United States the loss and damage sustained by it during the delay of one year six months and nine days, as set forth in Finding XIII, the sum of $135,560.

EXHIBIT B.

LETTER OF MR. JUSTICE BREWER, SUPREME COURT.

SUPREME COURT OF THE UNITED STATES,
Washington, D. C., December 17, 1907.

MY DEAR MR. FAY: Do not think I have neglected the matter to which you called my attention a few nights since. I spoke first to some of the brethren individually and finally I brought the matter up before the court in conference. The brethren without dissent advised me not to write the letter you suggest. There is nothing in the opinion which ignores the equity upon which you rely and of course nothing to intimate that Congress can not if it sees fit grant all the relief desired.

The brethren thought it would be unwise to intimate that Congress might or ought to act in the matter, and prefer to leave it for the action of that body, based upon such showing of the facts as can be made. It is not to be supposed, of course, that Congress will not be willing to do what is right in the premises.

I return herewith the inclosures in your letter, thinking that you may have use for them in your further efforts.

Very truly, yours, DAVID J. BREWER.

Hon. JOHN C. FAY,
Glover Building, 1419 F Street.

EXHIBIT C.

AFFIDAVIT OF HON. BENJAMIN F. TRACY, EX-SECRETARY OF THE NAVY.

STATE OF NEW YORK,
County of New York, Borough of Manhattan, ss:

Benjamin F. Tracy, being duly sworn, says:

That he was Secretary for the Department of the Navy of the United States during the administration of the late President Harrison.

That as such Secretary, under the provisions of the act of Congress approved June 30, 1890, for the building of battleships for the Navy, he, on or about the 19th day of November, 1890, entered into three contracts for the building of battleships designated as Nos. 1, 2, and 3; said battleships were to be built according to the same plans and specifications and were identical in all respects. Contracts for battleships Nos. 1 and 2, subsequently named the *Indiana* and the *Massachusetts*, were made with the William Cramp & Sons Ship & Engine Building Co., of Philadelphia, Pa. A contract in identical form for battleship No. 3, afterwards named the *Oregon*, was made with the Union Iron Works, of San Francisco, Cal. By provisions in these three contracts the United States was to furnish all the heavy armor and each vessel was to be completed within three years from the date of contract, under onerous penalties against contractor for delay, the United States agreeing to furnish the armor and their accessories within the "time and in order to carry on the work properly." Each contract provided for the accepting of the vessel by the United States without armor in case its building was delayed by the default of the United States in furnishing armor, and each contract provided in similar terms for a final receipt of all claims of any kind or description under or by virtue of the contract.

Before and at the time of making these contracts "all-steel" armor had been the standard in the Navy, it being considered the best then known, but in 1889 his attention had been directed to nickel steel and the so-called Harvey process, and early in 1890 he had begun an investigation as to their respective merits which had proceeded so far as to have resulted in a comparative test between the compound steel, the all steel, and the nickel steel at Annapolis, September 18–22, 1890, as set forth in his annual report of 1890, and in consequence Congress had appropriated $1,000,000 for the purchase of nickel metal; but deponent was unwilling to determine definitely upon the character of armor to be applied to the new battleships without further tests, experiments, and investigation both as to nickel steel and the Harvey process, and to leave the department free to continue these investigations when he came to make the contracts of November 19, 1890, for the *Indiana*, *Massachusetts*, and *Oregon*, the proviso of Article III, binding the Government to accept the vessels without armor, if the United States was unable to supply it in the time and in the order to carry on the work properly, was inserted so as not to impose upon the builders the necessary expense of the care of the vessels during the time required for the Government experiments calculated to obtain the very best armor.

After these contracts were let he proceeded with further tests of both nickel steel and the harveyized nickel steel and the various other kinds of armor, which continued up to July 30, 1892, as set forth in detail in his annual reports of 1890, 1891, and 1892, before he reached the conclusion to adopt the harveyized nickel-steel armor, and, accordingly, in February, 1893, made contracts for the production of this character of armor. During all this time the coordinate work on these vessels had been progressing satisfactorily to the department, and it became evident that this decision would result in a very considerable delay in their completion, and that the necessary cost of their care, maintenance, preservation, insurance, and extra dockage and wharfage during this period of delay would amount to a large sum, and the United States having no proper facilities at its navy yards to take over these vessels in their unfinished condition and care for and complete them, all of which being brought to his attention by the builders of the *Oregon*, he entered into the supplemental contract attached hereto with that company, by which these several expenses were to be currently ascertained and paid by the United States, and he is informed and believes they were so paid. That a similar supplementary contract would have been made by him with the Cramp Co. for the *Indiana* and *Massachusetts* if it had been brought to his attention.

That the sixth clause of Article XIX of the contract was an old form that had been in use in Navy contracts for many years, and, while it was very properly applicable when the builder furnished all the material and labor for the construction of a vessel, was not, standing alone, very appropriate for a contract where part of the material was to be furnished by the United States; but it was never intended by him to impose upon the builder the loss, expense, or damage that accrued to it by reason of the failure of the United States to perform its part of the contract. He can confidently state that at the time of making these contracts that, by providing for this final receipt and release, it was not the purpose, intent, or design of either party to the contract that it should extend to or cover damages which the contractor might sustain by reason of the failure of the Government to perform the contract on its part, nor is he aware that the department in any case has so construed a similar final release or receipt.

BENJAMIN F. TRACY.

Subscribed and sworn to before me this 31st day of October, A. D. 1907.

[SEAL.] CHAS. A. CONLON,
Notary Public, New York County.

EXHIBIT D.

AFFIDAVIT OF ADMIRAL PHILIP HICHBORN, UNITED STATES NAVY, RETIRED, LATE CHIEF OF THE BUREAU OF CONSTRUCTION AND REPAIR.

DISTRICT OF COLUMBIA, *ss:*

Philip Hichborn, of the city of Washington, being duly sworn, says:

That he is on the retired list of the United States Navy, having been retired while chief constructor, after a service in its construction corps of more than 30 years.

That he was intimately connected with the building of the so-called "New Navy" from its inception to the time of his retirement from active service, as member of the Naval Advisory Board, Assistant to Chief, and afterwards Chief of the Bureau of Construction and Repair.

That during the preparartion of the contracts for the *Indiana*, *Massachusetts*, and *Oregon* he was, either personally or through his assistants, in constant communication with the Secretary and the Judge Advocate General as to their terms, but more particularly as to technical parts of it, although the whole contract was referred to him for examination and report and was carefully examined and considered before it was finally signed.

That he distinctly recalls the fact that Article III, providing for a trial trip without armor, was fully discussed, and its purpose to avoid entailing the costs and expenses arising from delays in the delivery of armor upon the contractors was well understood by all parties connected with the contract, and some additional language was inserted at Mr. Cramp's suggestion to render the understanding clearer.

The sixth clause of Article XIX was an old form in use for many years in the Navy Department, and at no time during the preparation of the contract did he ever hear any of the officers of the department who had any hand in the preparation of the contract suggest that it might be so construed as to require release of any damages that might accrue to the contractors from any breach of the contract on the part of the United States as a condition to final payment; he certainly did not so understand it, nor does he believe that if such a construction of that clause had been avowed by the department, it would have been able to have secured a contract from any responsible shipbuilding concern in the country.

That after the armor had been so long delayed and the contract time had expired, and the time within which the armor could be secured was indefinite and uncertain, the company, under the special direction of officers of the Navy, charged with that duty by direction of the Secretary of the Navy, proceeded to install temporary work and weight down the *Indiana* for a trial trip without armor, under the provisions of the third article of the contract, and expended some $17,000 in such work, took her on a contractors' trial trip, and tendered her for official trial.

That deponent thought that such a trial in her unfinished condition would be of great service in developing the vessel and exhibiting any weak places or errors in design, and was strongly in favor of submitting her to trial irrespective of the provisions in the contract so to do, but the United States was not then equipped to take charge of the vessel and care for her during the subsequent delay which it was then well known was certain to continue for a very considerable length of time, and the Secretary, for reasons satisfactory to himself, through other agencies than the Bureau of Construction and Repair, declined to permit her to make a trial trip until finally completed.

Deponent further says that after the completion and acceptance of the vessel he was called upon to make up the final account, and in so doing he made no allowances for damages for delay, nor was the matter at all considered or embraced in the final account, for the reason that it had long been held in the department that the department had no authority or jurisdiction to entertain, audit, or consider such claims, nor was any appropriation available for their payment; that all claims of such character that had been or afterwards were during his term of office considered or audited by the department had been under special legislation giving the department jurisdiction in certain specified cases.

That he personally, by direction of the Secretary, examined the claim of the *Indiana*, and made a report to the Senate committee in the Fifty-fourth Congress, and from his examination he is able to say that the allowance by the Court of Claims is, in his judgment, fair and reasonable, and leaving out the item that he was unwilling to pass on for lack of evidence, and which was allowed by the court, an analysis of the award of the court shows it to be less than the report made by him as Chief of the Bureau of Construction and Repair.

PHILIP HICHBORN.

Sworn and subscribed to before me this 5th day of November, A. D. 1907.

[SEAL.] GEORGE J. JOHNSTON,
Notary Public, District of Columbia.

EXHIBIT E.

AFFIDAVIT OF EX-NAVAL CONSTRUCTOR LEWIS NIXON.

STATE OF NEW YORK, *Borough of Manhattan:*

Lewis Nixon, of Tompkinsville, Staten Island, State of New York, being duly sworn, says that he is by occupation a shipbuilder; that he graduated at the United States Naval Academy at Annapolis, and the Royal Academy at Greenwich, England, and served in the United States Navy as an assistant naval constructor to about January 1, 1891; that in 1890 he was ordered to the Bureau of Construction and Repair in Washington, and was assigned to the duty of designing and preparing

the plans and specifications of the coast-defense battleships provided for under the act of June 30, 1890, which designs were adopted, and the *Indiana*, *Massachusetts*, and *Oregon* were built thereunder; that in the formulation of the contracts for these vessels he was in constant and almost daily consultation with both Secretary Tracy and Judge Advocate General Remy; that he was deeply interested in the successful building of these battleships, both from a professional as well as a patriotic standpoint, and took great care and aimed to insert such stringent provisions as were calculated to stimulate the builders to great energy in speedily constructing the vessels, but not so harsh and unjust that might deter a shipbuilder from undertaking a contract, and with this end in view, at his suggestion, the obligation of the United States to furnish the armor at the time and in the order to carry on the work properly and the provision that, in default of so doing, the vessel was to be accepted without armor, were inserted, and to free this clause from any ambiguity the words "and to continue with reasonable diligence" were afterwards added in manuscript in the printed contract at the suggestion of Mr. C. H. Cramp before he signed the formal contract.

If this provision of the contract had been lived up to by the United States, no part of the claim or damage sued for in the Court of Claims ever would or could have arisen in behalf of the Cramp Co. for the expense of the care, preservation, and maintenance of the vessels which did accrue by reason of the delay in furnishing the armor would have been borne by the United States, as the contract intended to provide that it should be; that from his personal connection with the preparation of the contract and his intercourse and consultation with the Secretary and The Judge Advocate General he can confidently state that it never was the intention of the United States, as represented by its officers, as parties to the contract, that the provision for a final release, embodying in it as a condition precedent to the payment of the balance of the contract price, to require the release of or cover any claim for damage arising out of the breach of contract by the United States or exempt the United States from the cost and expense of the care, preservation, and maintenance of either of these vessels during the period of enforced delay occasioned by the inability of the United States to fulfill its part of its contract.

That shortly after the making of the contract, the Cramp Co. tendered to him the position of superintendent of their yard to supervise the building of these vessels, and, in his anxiety to see his designs successfully carried out, he resigned from the Navy, accepted the offer and built two of these vessels, the *Indiana* and *Massachusetts*. That when the delays began to accrue he pushed the coordinate work so that the vessels should have a preliminary trial trip, and with the sanction of the Secretary of the Navy and under the supervision of two naval officers specially directed by the Secretary to supervise the temporary work necessary to take the vessel to sea, performed all such necessary work on the *Indiana* and weighed her down to her normal draft, at an expense of $17,000, took her to sea on her contractors' trial trip and tendered for official trial, ready in all respects to make such trip without her armor; but the Secretary of the Navy declined to allow her to make a trial trip unless fully completed, utterly ignoring the provisions of article 3. That during all the time of the delays he had frequent consultations with the officers of the Construction Bureau and the Secretary, and while it was frankly conceded by all of them that very serious expenses were being necessarily incurred by reason thereof, it never was intimated that, by any construction of the contract, such expense was to be borne by or claim for them was to be waived by the contractor.

LEWIS NIXON.

Sworn and subscribed before me this 30th day of October, A. D. 1907.
[SEAL.] LAURA E. SMITH,
Notary Public, Kings County.

(Certificate filed in New York County.)

EXHIBIT F.

STATEMENT OF HON. H. A. HERBERT, EX-SECRETARY OF THE NAVY.

WASHINGTON, D. C., *December 16, 1907.*

DEAR SIR: At the request of Messrs. Hunton & Creecy, I am condensing in a letter to you a statement made more at length in the correspondence between them and myself, which is to be filed with the committee.

Under the contract for the construction of the *Indiana* and all other armored ships the Government was to furnish and deliver at times and places as needed all heavy armor. When I became Secretary of the Navy the Government was far behind with its deliveries of armor for the *Indiana*, partly by reason of delays on the part of the armor contractors and partly because of experiments with a new process of harveyizing, which had been begun under Secretary Tracy and which were continued under me, thus causing further delay.

The Cramp Co., builders of the *Indiana*, in August, 1893, earnestly protested against further delay, asked to be furnished with nickel steel armor, as previously decided upon. On August 25, 1893, I, as Secretary, replied:

"The department thinks it for the best interests of the service that this armor should be harveyized, even if it should occasion some delay in the completion of the vessel, as you state."

I was deciding solely what was to the interests of the Government. The question of compensation to the contractors for losses that might result to them from enforced delays was not before me, nor had I as an executive officer any jurisdiction over that matter. But whenever I had occasion subsequently to consider this matter, my every act and deed showed that in my opinion the Government was responsible to the builders for all losses caused by its failure to comply with its contracts to deliver armor when required to do so under its contracts.

When, on May 10, 1894, I advanced to the Cramp Co. a considerable sum of money already earned but not then payable, I exacted from the company a release of the United States "from all and every claim for loss and damage hitherto sustained by reason of any failure" on their part or "on account of any delay hitherto occasioned by" their action.

The panic of 1893–94 was then on. The company was in urgent need of the money, and I thought the release of their claim for damages on account of the Government's delay was a valuable consideration for the advance payment of this money.

Again, on February 27, 1895, as Secretary I stated in a letter to the Naval Committee that I saw no objection to the passage of a bill which had been referred to me for the relief of the builders of the *Texas*, whose claim was exactly similar to that of the Cramp Co. in the matter of the *Indiana*.

Again, after this bill for the *Texas* was passed, Assistant Secretary McAdoo, December 20, 1895, reported that, "in the opinion of the department," the contractors were "justly and equitably entitled to $80,049.35."

Again, December 8, 1896, responding to an inquiry from Congress as to whether the claims of the builders of the *Indiana* and other vessels for damages incurred in like cases should be decided by Congress or the Court of Claims, as Secretary I stated that, "in my judgment, the interests of justice demand" that these cases should be referred to the Court of Claims, giving as my reason that the court could consider with more deliberation and care than the committees of Congress could.

Again, Chief Constructor Hichborn, then under me, February 9, 1897, recommended the payment of items on account of the losses of the *Indiana* of $97,214.85, and this without considering, as he said, another large amount which he thought the committee was more competent than he to investigate.

Thus, without a break, every act of the department touching this matter, when I presided over it, showed that, in its opinion, the builders had a just claim for the losses resulting to them from delays caused by the Government in furnishing armor according to its contracts.

The Supreme Court, however, decided in the *Indiana* case that by the final release stipulated for in the building contract and given when the last payments were made, all claims for damages by the builders were released, although the Court of Claims had held otherwise.

That my view of this release was that taken by the Court of Claims and not that taken by the Supreme Court is clear from the following consideration:

In my letter transmitting the Cramp cases to Congress (see H. R. 816, 55th Cong., 2d sess.) I called special attention to the release of May 10, 1894, from all damages theretofore incurred in the case of the *Indiana* and to a similar release in the case of the *Massachusetts*. This I did because I thought it my duty to see that Congress, before taking any action, should have before it any written release that might have been given.

Per contra.—On December 8, 1896, when I expressed the opinion that the "interests of justice demanded" that these Cramp cases and others should be sent to the Court of Claims, the final release which the Supreme Court afterwards construed in the case of the *Indiana* had already been given, to wit, May 18, 1896.

If, in my opinion, at that time the Cramp Co. had released all claim for damages in writing by its receipt for the final payment, it would have been clearly my duty to call the attention of Congress to that fact. But this was not done, for the reason that it was not my opinion that the company had by its receipt for the last regular payments released the Government from the claim for damages which I was recommending should be sent to the Court of Claims.

Very respectfully,

H. A. HERBERT.

Hon. C. W. FULTON,
Chairman Committee on Claims, United States Senate.

EXHIBIT G.

AFFIDAVIT OF MR. CHARLES H. CRAMP, EX-PRESIDENT THE WILLIAM CRAMP & SONS SHIP AND ENGINE BUILDING CO.

STATE OF PENNSYLVANIA:

Charles H. Cramp, being duly affirmed, says: That he was the president of the William Cramp & Sons Ship and Engine Building Co. during the period that company was building the battleships and cruisers for the new Navy of the United States, including the battleships *Indiana*, *Massachusetts*, and *Iowa*, and the cruisers *New York*, *Brooklyn*, and *Columbia*, all of which vessels were seriously delayed during their construction by reason of the failure of the United States to fulfill the obligations on its part assumed under the terms of the contract.

That at the time, in November, 1890, when the terms of the contract for the building of battleship No. 1, afterwards called the *Indiana*, were under consideration, he had frequent consultations with the chief constructor and his chief assistant and Secretary Tracy, and while the company agreed to submit to penalties for delay caused by it in the construction of the vessel, the United States agreed to take the vessel off the hands of the contractor in an unfinished condition in case the delays were caused by the United States. If these latter terms had been carried out there would have been no cost to the company for the care and preservation, insurance, wharfage, and similar items during the enforced delay brought about by the delay in furnishing the armor on the part of the United States, and there was never any intimation on the part of any officer of the Government in all the negotiations or during the contract period that the contract price included or was intended to include the expense of the maintenance, care, preservation, or other expenses made necessary by the delay after the contract term expired. The price fixed in the contract included nothing but the work provided for under the plans and specifications. There was never any understanding, agreement, or pretense on the part of either party to the contract that the final receipt covered or intended to cover anything except the construction of the vessel under the contract, and it was given and accepted with the full knowledge and understanding both of the Secretary of the Navy and the company that it was not intended to be any bar to the recovery by the company of the expenses of care, wharfage, insurance, etc., of the vessel during the time of the delay.

At the moment, May, 1896, when the receipt was signed there was pending in Congress a petition of the company for the passage of a law conferring on the Secretary of the Navy authority to audit and pay this identical claim. This was well known to the Secretary, and he had before that time recommended similar legislation in a similar case.

At the time of signing the receipt the Secretary conceded that the Government's delay had caused the company great loss, and that they had a valid claim for reimbursement, but held that he was without jurisdiction to pass upon it and without funds to liquidate it.

Enlightened by these surrounding facts and circumstances, it is not possible to construe the words of the receipt "for, or by reason of, or on account of the construction of the vessel under the contract" to embrace the claim for the care and preservation of the vessel, which was no part of the construction of the vessel and which did not arise by virtue of any provision in the contract or specifications. Neither party intended that it should, and the contemporaneous acts of both parties emphasized it.

The Secretary of the Navy had treated a partial release of this claim as a valid and valuable consideration for the payment of what he claimed to be an advance of money not yet due under the contract, and the company had presented it and were pressing it before Congress with the knowledge and acquiescence of the Secretary.

In May, 1894, the Secretary refused an official trial trip and declined to accept the vessel in an unfinished condition and refused to make further payments till a trial trip was had. The company had, under the eye of specially detailed officers, expended $17,000 for temporary work so the vessel could be taken to sea and had made a con-

tractor's trial trip. The company was then in dire need of money. It was carrying more than a million and a quarter of dollars in loans at abnormal rates of interest, with a weekly pay roll of upward of $10,000 a day and upward of 5,000 employees, which represented fully 20,000 persons dependent upon the continuation of work in the company's yard.

It was the time of financial panic, and to have thrown these men out of employment would have been a calamity to the city and State. To avert so disastrous a calamity, against his earnest remonstrance he was coerced into signing the special release of May 10, 1894, in order to receive, not an advance payment, for the money was then long overdue, but to save the company from threatened bankruptcy and the city and State from a disastrous calamity. Personal violence to him or imprisonment itself would not have been more potent in obtaining the release than were the circumstances that surrounded him at the time.

CHAS. H. CRAMP.

Affirmed and subscribed to before me at Devon, Pa., this 10th day of August, A. D. 1907.

[SEAL.] ISAAC ARROTT, *Notary Public.*

(My commission expires February 29, 1909.)

The PRESIDING OFFICER. The question is, Shall the bill be indefinitely postponed?

The bill was indefinitely postponed.

ACADEMY AND INSTITUTE OF ARTS AND LETTERS.

Mr. LODGE. I ask that an order be made to recall from the House of Representatives two bills passed on Saturday last, because I find one bill precisely similar is here from the House. The Senator from New York [Mr. ROOT] has asked me to request the order. I ask that the bill (S. 4355) incorporating the National Institute of Arts and Letters and the bill (S. 4356) incorporating the National Academy of Arts and Letters be recalled from the House.

The PRESIDING OFFICER. Without objection, that order will be made.

Mr. KERN. I move that the Senate adjourn.

The motion was agreed to; and (at 5 o'clock and 20 minutes p. m.) the Senate adjourned until to-morrow, Wednesday, January 22, 1913, at 12 o'clock m.

HOUSE OF REPRESENTATIVES.

TUESDAY, *January 21, 1913.*

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

Blessed be the name of the Lord our God, whose mercy is from everlasting to everlasting.

That God which ever lives and loves;
One God, one law, one element,
And one far-off divine event,
To which the whole creation moves.

Impart unto us of Thy grace sufficient unto the needs of this day, and help us by faith and confidence, by courage and fortitude, by the rectitude of our behavior, to hasten the coming of Thy kingdom upon the earth, that righteousness, peace, and good will may reign in every heart, through Jesus Christ our Lord. Amen.

The Journal of the proceedings of yesterday was read and approved.

IMMIGRATION.

Mr. BURNETT. Mr. Speaker, I move that the House further insist upon its amendment to the bill (S. 3175) to regulate the immigration of aliens to and the residence of aliens in the United States, and agree to a further conference.

The SPEAKER. The Clerk will read the title of the bill.

The Clerk read as follows:

S. 3175. An act to regulate the immigration of aliens to and the residence of aliens in the United States.

The SPEAKER. The gentleman from Alabama [Mr. BURNETT] moves that the House further insist upon its amendment to the Senate bill and agree to a further conference asked for by the Senate.

The motion was agreed to.

The SPEAKER announced the following conferees on the part of the House: Mr. BURNETT, Mr. SABATH, and Mr. GARDNER of Massachusetts.

BUREAU OF MINES.

Mr. FOSTER. Mr. Speaker, I ask unanimous consent to take from the Speaker's table House bill 17260, disagree to the Senate amendments, and ask for a conference.

The SPEAKER. The Clerk will report the title of the bill.

The Clerk read as follows:

H. R. 17260. An act to amend an act entitled "An act to establish in the Department of the Interior a Bureau of Mines," approved May 16, 1910.

Mr. FITZGERALD. What is this?

Mr. FOSTER. This is the Bureau of Mines bill.

The SPEAKER. The gentleman from Illinois [Mr. FOSTER] moves to disagree to the Senate amendments and ask for a conference.

The motion was agreed to.

The SPEAKER announced the following conferees on the part of the House: Mr. FOSTER, Mr. WILSON of Pennsylvania, and Mr. HOWELL.

PENSIONS.

Mr. RUSSELL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill H. R. 27062 for the purpose of agreeing to the Senate amendments.

The SPEAKER. The Chair lays before the House the bill H. R. 27062, with Senate amendments. The Clerk will read the title.

The Clerk read the title of the bill, as follows:

H. R. 27062. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War, and to certain widows and dependent children of soldiers and sailors of said war.

Mr. RUSSELL. Mr. Speaker, I ask unanimous consent that the House concur in the Senate amendments.

The SPEAKER. The gentleman asks unanimous consent that the House concur in the Senate amendments. The Clerk will report the amendments.

The Senate amendments were read.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

The Senate amendments were concurred in.

CHARLES CURTIS AND WIFE.

Mr. LLOYD. Mr. Speaker, I ask for the present consideration of a privileged resolution, which I send to the Clerk's desk.

The SPEAKER. The Clerk will report the resolution.

The Clerk read as follows:

House resolution 782 (H. Rept. 1352).

Resolved, That the Clerk of the House is hereby authorized to pay, out of the contingent fund of the House, the sum of $211.50 to William S. Riley, for the funeral expenses of Charles Curtis, late an employee of the House, and of his wife, whose death occurred within three days after that of her husband, in lieu of the allowance usually made of funeral expenses not exceeding $250.

Mr. LLOYD. Mr. Speaker, in this case the employee died during the holiday recess, leaving a widow, but in three days his widow died. Under the rule she would have been entitled to an amount equal to his salary for six months and the expenses of his funeral not exceeding $250. He left no children, and this resolution provides for payment to the undertaker of the expenses of the funerals, both of Mr. Curtis and of his wife, the total of which does not equal the $250 which is ordinarily allowed for the funeral expenses of an employee.

The resolution was agreed to.

LILLIE M. REESCH.

Mr. LLOYD. Mr. Speaker, I ask for the present consideration of another privileged resolution, which I send to the Clerk's desk.

The SPEAKER. The gentleman from Missouri offers a resolution, which the Clerk will report.

The Clerk read as follows:

House resolution 744 (H. Rept. 1354).

Resolved, That there shall be paid, out of the contingent fund of the House, the sum of $600 to Lillie M. Reesch, for extra services rendered in connection with the sending out of blanks, receiving, filing, and compiling expense statements filed by the Members of Congress in accordance with H. R. 2958, "An act to amend an act entitled 'An act providing for publicity of contributions made for the purpose of influencing elections at which Representatives in Congress are elected,' and extending the same to candidates for nomination and election to the offices of Representative and Senator in the Congress of the United States and limiting the amount of campaign expenses."

Mr. MANN. What is this?

Mr. LLOYD. Mr. Speaker, this resolution provides for pay to a clerk in the office of the Clerk of the House for sending out the notices with reference to the statements required of the campaign expenses of Members and for compiling the statements after they were sent in. There is no provision of law for anyone to do this work, excepting that these statements are required to be sent to the Clerk. A vast amount of work has been done in connection with these statements, giving notice to Members, and filing and compiling the statements after their receipt by the Clerk. This resolution provides compensation to the lady who did it.

Mr. MANN. How much?

Mr. LLOYD. Six hundred dollars.

The resolution was agreed to.

C. L. GILBERT.

Mr. LLOYD. Mr. Speaker, I present the following privileged resolution.

The SPEAKER. The Clerk will report the resolution.

The Clerk read as follows:

House resolution 754 (H. Rept. 1353).

Resolved, That there shall be paid out of the contingent fund of the House the sum of $167.50 to C. L. Gilbert, session clerk of the Committee on Expenditures in the Department of Commerce and Labor, for one month and two weeks' services rendered said committee during the interval between the second and third session of the Sixty-second Congress.

Mr. LLOYD. Mr. Speaker, this resolution provides for pay to the clerk of the Committee on Expenditures in the Department of Commerce and Labor for one month and two weeks' services rendered during the vacation. This clerk came here and actually rendered the service. He is not the private secretary of any Member, so that the passage of this resolution is necessary in order to provide the usual compensation of $125 a month.

Mr. MANN. This committee has a session clerk?

Mr. LLOYD. Yes.

Mr. MANN. When was this service rendered?

Mr. LLOYD. In September and October.

Mr. MANN. What was the occasion of his coming here at that time, when he ought to have been engaged in the campaign? [Laughter.]

Mr. LLOYD. I do not know why he came, but he came here and performed the services. I move to amend the resolution by changing the figure 6 to 8.

The SPEAKER. The Clerk will report the amendment.

The Clerk read as follows:

Amend, line 2, by striking out the figure 6 and inserting the figure 8.

The amendment was agreed to.

The resolution as amended was agreed to.

POSTAL CLERKS AND THE PARCEL POST.

Mr. KENDALL. Mr. Speaker, I ask unanimous consent to address the House for one minute for the purpose of presenting a letter from Carl C. Van Dyke, president of the tenth division of the Railway Mail Association with reference to the parcel post.

Mr. MANN. What is the letter about?

Mr. KENDALL. About the parcel post and the necessity for increased help in the service.

The SPEAKER. The gentleman from Iowa asks unanimous consent to print in the RECORD the letter referred to. Is there objection?

There was no objection.

The letter is as follows:

WASHINGTON, *January 16, 1913.*

Hon. NATHAN E. KENDALL,
House of Representatives, Washington, D. C.

MY DEAR SIR: I desire to call your attention to a talk and to the newspaper clippings which were caused to be read in the House last Saturday afternoon by Congressman COX, of Indiana.

I represent the railway postal clerks of the tenth division, and because of the fact that I have been elected and reelected to this office by a referendum vote of our men regardless of the department's and Mr. Schardt's opposition, I am led to believe that I represent the views and will of these clerks.

As to the newspaper clippings which were caused to be read, I have this to say: I have never caused to be published any statement wherein it was presumed that it was the desire or intention of the clerks to strike, and in furtherance of this contention I wish to quote from the hearings before the Committee on Reform in the Civil Service on H. R. 5970, Sixty-second Congress, second session:

"Mr. DIES. You do not take the position that it is unlawful for a Government clerk to resign or strike?

"Mr. VAN DYKE. I do; and if they should resign in a body or send in their resignation en bloc that it is more or less of a conspiracy; but we do not take the stand that we want to organize to strike, but to stop such a thing, and, further, to have our grievances rectified by taking them through to Congress if necessary."

I am led to believe that this talk of strike on the part of postal employees which has been given publicity during the last two years originated with the department officials for the purpose of crushing such organizations of postal employees which they could not dominate and silence.

Since handing in my resignation to the Post Office Department I have done all in my power to help this class of employees of whom so little was known. I have appeared before committees of both the House and the Senate in their behalf, and am pleased to state that they are very grateful to Congress for the beneficial legislation passed last session.

The interview which I gave in the two cases quoted by Mr. COX was in reply to my opinion of the inauguration of parcel post, and was in substance as follows:

"It seems that the department, as far as the Railway Mail Service is concerned, has made little or no preparation to handle additional mail, which, in my opinion, if the parcel-post proposition is to be made a success, must be done and done quickly, inasmuch as additional car space and more men will be needed to get this mail through on time. The mail service was in bad shape a year ago because of the economy policy of the department, and I am afraid that it will again be in bad shape unless men and space are allowed for the increase in volume which is to be expected because of parcel post. It is needless to state that unless these parcels are sent through without delay the parcel post will become somewhat of a failure instead of the great success it should be.

"Quite naturally, we will enter a protest if extra duty is assigned to the Railway Postal Service, inasmuch as there are thousands of men who are now averaging more than eight hours a day 313 days in a year and who receive no extra compensation for extra duty and are probably about the only men in Government service who receive no annual vacation. These same men have just finished doing extra duty because of the holiday rush, and I doubt very much if it is the desire of either Congress or the public to overwork them, and I shall certainly take means to let both Congress and the public know if extra-duty schedules are prepared."

The foregoing is, as I stated, the substance of my interview with the newspaper men in regard to parcel post.

Since coming to Washington I have been notified that extra-duty schedules have already started on Chicago and Minneapolis railway post office and Pembina and St. Paul railway post office.

I sincerely hope that, in justice to myself and railway mail clerks whom I have the honor to represent, you will give this letter the same publicity as Mr. COX gave the one from Mr. Schardt, stating that the men were willing to do extra duty.

Respectfully, yours,

CARL C. VAN DYKE,
President Tenth Division Railway Mail Association.

ARMY APPROPRIATION BILL.

Mr. HAY. I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the Army appropriation bill—H. R. 27941.

The motion was agreed to.

Accordingly the House resolved itself into Committee of the Whole House on the state of the Union, with Mr. SAUNDERS in the chair.

The CHAIRMAN. The House is now in Committee of the Whole House on the state of the Union for the further consideration of the Army appropriation bill. The Clerk will report the amendment that was pending when the committee rose.

The Clerk read as follows:

Page 31, after line 21, add the following:

"*Provided*, That no part of this or any other appropriation carried herein shall be used for the payment of expenses of holding, going to, attendance on, and returning from polo tournaments, horse shows, Olympic games, or race track, by officers, enlisted men, horses, or equipments belonging to the United States, except at the United States Military Academy."

Mr. HAY. Mr. Chairman, I move that all debate on this amendment be now closed unless somebody wants to make some further remarks.

Mr. BURKE of South Dakota. I do not object to the debate being closed, so far as this amendment is concerned. The House was dividing, I believe, when the committee rose.

Mr. HAY. If the Chair is going to put the question, I have no objection.

The CHAIRMAN. The question is on the amendment.

The question was taken; and on a division (demanded by Mr. FOSTER) there were--ayes 15, noes 47.

So the amendment was rejected.

Mr. HAY. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

Amend, page 29, line 15, by striking out the words "to their home (or elsewhere as they may elect)" and insert the words, "or from any place in which they have been held under a sentence of dishonorable discharge and confinement for more than six months, or from the Government Hospital for the Insane after transfer thereto from such prison or place to their home (or elsewhere as they may elect)."

Mr. HAY. Mr. Chairman, the reason for the amendment is that I am informed that the law in effect only applies to prisoners discharged from the United States military prison at Fort Leavenworth and the prison at Alcatraz, Cal.

There are other places for confinement of prisoners than those, and one-third of the prisoners are confined elsewhere than at military prisons.

Mr. MANN. Where are these prisoners to be sent, under the gentleman's amendment?

Mr. HAY. Nowhere, but when discharged they are to be transported to their home as they may elect at the expense of the Government, as other military prisoners are.

Mr. MANN. I thought the gentleman's amendment as reported struck out the words "or elsewhere, as they may elect."

Mr. HAY. It does; but the amendment as offered retains in the law the same words.

Mr. MANN. Then those words still remain in the gentleman's amendment?

Mr. HAY. They do. I ask for a vote.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia.

The question was taken, and the amendment was agreed to.

Mr. HAY. Now, Mr. Chairman, I move that all debate on this paragraph and amendments thereto close in 10 minutes.

Mr. BURKE of South Dakota. Mr. Chairman, I want to say to the gentleman from Virginia that I have an amendment that I propose to offer which I do not care to debate. If that amendment is voted down, then I have another amendment that I would like to debate about 5 minutes. With that understanding, I have no objection.

Mr. HAY. Very well, Mr. Chairman, I withdraw the motion.

Mr. BURKE of South Dakota. Mr. Chairman, I now offer the following amendment, which I send to the desk.

The Clerk read as follows:

Page 31, after line 21, add the following: "*Provided*, That no part of this or any other appropriation carried herein shall be used for the payment of expenses of holding, going to, attendance on, and returning from any polo tournaments except at the United States Military Academy."

The CHAIRMAN. The question is on the amendment offered by the gentleman from South Dakota.

The question was taken; and on a division (demanded by Mr. KAHN) there were 27 ayes and 37 noes.

So the amendment was rejected.

Mr. BURKE of South Dakota. Mr. Chairman, I offer the following amendment, which I send to the desk.

The Clerk read as follows:

Amend, page 30, line 1, after the word "ferriage," insert "transportation of officers, enlisted men, and horses for attendance on polo tournaments, horse shows, Olympic games, and race-track events."

Mr. HAY. Mr. Chairman, I make the point of order on that amendment.

Mr. BURKE of South Dakota. Mr. Chairman, I would like the gentleman to state what his point of order is.

Mr. HAY. Mr. Chairman, it is a change of existing law.

Mr. BURKE of South Dakota. I thought the gentleman had been maintaining that under the law expenditures for this purpose might be made.

Mr. HAY. But this is a change in existing law. This is not a limitation on the appropriation.

Mr. BURKE of South Dakota. Mr. Chairman, will the gentleman reserve his point of order for a moment?

Mr. HAY. I will reserve the point of order.

Mr. BURKE of South Dakota. Mr. Chairman, I have been prompted to offer the amendments that have been voted down because during the last session of Congress on the floor of the House when one of the deficiency appropriation bills was pending I inquired of some of the members of the Committee on Military Affairs as to whether or not there was any authority of law for paying out of any appropriation made in the Army appropriation bill moneys to cover the expenses connected with polo tournaments, and I was informed by several members of that committee that there was no law authorizing any such expenditure. It has been stated since this bill has been before the committee and on Saturday last by no less than three members of the Committee on Military Affairs that in their opinion there is no law that will justify paying the expenses of polo tournaments, race-track events, Olympic games, and other similar exhibitions.

It seems that there was a voucher that reached the Treasury Department to pay certain expenses in connection with a polo tournament. The Auditor for the War Department, who is an officer of the Treasury Department, interpreted the law just as the members of the Committee on Military Affairs interpreted, and said:

I am of opinion and so decide that the regular appropriations for the support of the Army are not available for the payment of any expenses in connection with polo tournaments or polo matches, either for the transportation of polo ponies and equipments or for the transportation of officers and enlisted men or for the subsistence of enlisted men while attending such tournaments.

That was the decision of the Auditor for the War Department upon this question. The Comptroller of the Treasury in deciding this case, which was taken to him on appeal, held that the expenditure was authorized, and in doing so said:

The War Department is intrusted with the control of the Army and what, in its judgment, will promote its efficiency. The Secretary of War represents the President and exercises his power on the subjects confided to his department. If the War Department in the exercise of its jurisdiction and control of the Army is of the opinion that polo tournaments among the officers and enlisted men tend to promote the efficiency of the Army, and accordingly orders the officers and men to participate in such tournaments, which involve expenditures for transportation of officers and men and horses to attend such tournaments, I do not think the accounting officers can revise the judgment of the War Department in such matters or that they are authorized to disallow them the reasonable cost of such transportation.

Mr. Chairman, this committee, by rejecting the amendments which I have offered, has gone on record in favor of expenditures being made for this purpose. The Comptroller of the Treasury may change at any time, and the next comptroller may hold differently from the last comptroller. As long as we are now going to commit and have committed this House to the policy of making these expenditures for this purpose, let us put it in the law so that there can be no question about it.

Mr. HAY. Mr. Chairman, if the gentleman will permit me, I will withdraw the point of order and state that I have no objection to his amendment.

Mr. MANN. Mr. Chairman, I make the point of order.

Mr. BURKE of South Dakota. Mr. Chairman, I do not care to discuss the point of order. We have a decision of the comptroller that moneys may be expended for this purpose, as I have just read. It seems to me that if this is something that is considered necessary in connection with the efficiency of the Army it is quite within the power of this House and this committee to specifically appropriate for it, just as the language in the bill appropriates for many other purposes. It is upon the theory that it is a necessary part of the military organization, including maneuvers and other matters connected therewith.

Mr. MANN. Mr. Chairman, if the gentleman desires to proceed I will reserve the point of order.

Mr. BURKE of South Dakota. Mr. Chairman, I do not care to discuss the matter further, since the chairman of the committee is willing to accept the amendment.

Mr. PRINCE. Mr. Chairman, the gentleman's amendment, if adopted by the House, will be in line with the decision of the Auditor for the War Department?

Mr. BURKE of South Dakota. No; my amendment, if adopted, will be directly opposite from the decision of the Auditor of the War Department, but will be in line with the decision of the comptroller, who reversed the decision of the auditor.

Mr. PRINCE. So as to make it lawful for doing this work.

Mr. SLAYDEN. Will the gentleman permit a question?

Mr. BURKE of South Dakota. Certainly.

Mr. SLAYDEN. I could not hear the amendment when read. Am I to understand from the gentleman's statement just now that the gentleman proposes to make lawful what the gentleman thought was unlawful heretofore and what has been done?

Mr. BURKE of South Dakota. Yes; and I propose to do it, because I do not think we ought to leave this matter, now we have gone on record, to the decision of the comptroller because another comptroller may make another decision. Another comptroller might hold the same as the Auditor for the War Department.

Mr. SLAYDEN. But the gentleman switched from an inclination to save money now to a frank effort to increase an expenditure.

Mr. BURKE of South Dakota. No; it is in line with good administration of the Government, in my judgment. We have gone on record as favoring such expenditures, and therefore let us authorize it so it will not require a decision of some officer of the Treasury to determine what Congress intended.

Mr. KAHN. Mr. Chairman, since this matter was up last, I took occasion to call at the War Department to find out just how far the department was going in the way of shipping horses to race tracks and to Olympic games, and how far the department was going in the matter of getting up polo tournaments. I found that the matter of horsemanship is one of absorbing interest in the Army. Up to a few years ago the officers of the United States Army were woefully deficient in horsemanship as compared with the horsemanship of officers of other countries. They had poor mounts and the horses which were provided by the officers made no showing. Thereupon one of the societies interested in the breeding of good horses gave to the United States Government a number of well-bred horses for use of the officers. These horses are the ones that are being transported from one place to another, to various track events, so called. The races are not the ordinary races that occur at certain race tracks day after day. They are generally gentlemen's events, and the officers of the United States participate in them as gentlemen riders. Instead of riding for large purses they ride for trophies and sometimes a small purse is made up in addition, but it is not in any sense such a race as takes place on the ordinary race tracks of the country. It seems that last summer there was a race at the Benning track in the District. It was held after Congress adjourned. It was in the interest of good horsemanship. I believe they rode 15 miles in one race, which wound up with a steeplechase at the end. Every officer who went within that inclosure to see those officers ride in the races paid his admission fee. The general public, to a certain extent, went there and paid an admission fee, and it was that admission fee that paid the entire expenses of the tournament, or rather paid a portion of the expense, and the Army officers interested in the improvement of horsemanship in the military service went into their own pockets and paid the rest of it.

I find that in the polo tournament that was the subject of so much discussion on this floor last Friday or Saturday the officers went into their own pockets to pay the necessary expenses, but they suggested that where the citizens who came in automobiles and desired to see this game and who parked their automobiles along the road should be approached with a view of having them contribute a dollar toward the expense. The payment of the dollar was to be purely optional.

Mr. BURKE of South Dakota. Will the gentleman yield?

Mr. KAHN. Certainly.

Mr. BURKE of South Dakota. I would like to ask the gentleman if while he was getting information he ascertained how much money was collected in the aggregate from the people?

Mr. KAHN. No; but I understand there was not enough to pay the expenses, and the officers paid out of their own pockets a good deal of the share of the expenses.

The CHAIRMAN. The time of the gentleman has expired.

Mr. RAKER. Mr. Chairman, in this same connection, to show the disposition of the people of California toward these tournaments, I desire to say there is to be a western polo championship at Coronado, San Diego County, Cal., and to show that these people will not only pay the expenses of the officers, horses, and attendants while attending this tournament, except the mere transportation of the officers and horses, I desire to have the following telegram read.

The CHAIRMAN. The Clerk will read the telegram.

The Clerk read as follows:

SAN DIEGO, CAL., *January 20, 1913.*

JOHN E. RAKER,
Member of Congress, Washington, D. C.:

Coronado Country Club has been in correspondence with the War Department for past two years to allow military teams to enter in western polo championship; also compete for a new regimental polo trophy at Coronado, Cal., furnished by club. War Department strongly in favor of doing so on grounds of improved horsemanship, citing foreign countries, including United States, sending teams to compete for honors in horsemanship in Europe. War Department believes such tournaments incite greater individual effort to skill and horsemanship, and therefore of great benefit to the service, and will gladly consider matter if Senators and Representatives will indorse the undertaking. The Coronado Country Club will entertain three teams during tournament, covering hotel bills for accommodations and board for attendants and free feed and stabling for horses during tournament if War Department will find transportation. I earnestly solicit your support. Everything that helps anywhere in California helps the State. This is the best proposition of the kind ever offered the Government.

D. C. COLLIER.

Mr. RAKER. Mr. Chairman, this telegram voices the sentiment of the House, simply shows what benefit will be had to the Army in the improvement of horses, and by the House voting that they will encourage this it will be an indication to the War Department to furnish these horses and send their men to San Diego, Cal., for the purpose of participating in this splendid tournament.

Mr. MANN. Mr. Chairman, I make the point of order.

The CHAIRMAN. The effect of this amendment will be to authorize payment for transportation of officers, enlisted men, and horses for attendance upon polo tournaments, horse shows, Olympic games, and race-track events. Of course, this language is broad enough to authorize payment of expenses not only in connection with the particular type of races referred to by the gentleman from California [Mr. KAHN], but with every variety of race-track events. It is not contended, nor have I been referred to any law from which it can be reasonably inferred, that any authority exists to pay for the transportation of these officers, men, and horses to race-track events generally. Without going into the other features of the amendment, this statement is sufficient to show that the amendment affords authority not now afforded by law, and the point of order is sustained.

The Clerk read as follows:

Roads, walks, wharves, and drainage: For the construction and repairs by the Quartermaster Corps of roads, walks, and wharves; for the pay of employees; for the disposal of drainage; for dredging channels and for care and improvement of grounds at military posts and stations, $642,597.

Mr. ROBERTS of Massachusetts. Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The gentleman from Massachusetts offers an amendment, which the Clerk will report.

The Clerk read as follows:

Page 32, end of line 2, insert:

"*Provided*, That no part of this appropriation shall be available until the Secretary of War shall pay to the town of Winthrop, Mass., one-half of the cost, not to exceed the sum of $1,500, of a sidewalk and edge stones on the side of Revere Street in said town of Winthrop, upon which abuts the Fort Banks Military Reservation."

Mr. FOSTER. Mr. Chairman, I make a point of order against that.

Mr. ROBERTS of Massachusetts. Will the gentleman reserve the point of order?

Mr. FOSTER. I reserve it.

Mr. ROBERTS of Massachusetts. Mr. Chairman, I hope to be able to convince the gentleman from Illinois that this is not really the right place to raise his point of order. I concede that the amendment is subject to the point of order, but under the conditions surrounding this case I hope he will not insist upon his rights. The town of Winthrop, in Massachusetts, is one of the unfortunate communities which has been selected by the Government of the United States in which to establish seacoast batteries for coast defense. The people of the town of Winthrop did not seek the location of these works in their midst, and would be very glad indeed if they never had been placed there or if the Government would see fit to abandon them and get out of the town.

Now, in the town, on one of the main highways—Revere Street—there has been placed the Fort Banks Reservation. There are about 1,500 feet abutting on that street. On that street are located the officers' quarters, the hospital, and the gymnasium connected with the fort. The town desires to improve the street, not only that part of it in front of the military reservation, but the entire length of it. It is a main highway leading from the center of the town to what is called Winthrop Heights. The town desires a decent street after the work is done. They propose to place sidewalks on the easterly side and resurface the street proper, and they wish a sidewalk the entire length on the westerly side on which abuts the military reservation. The sidewalk, if constructed, will be of advantage to the reservation, in that the officers and others using the fort will have a convenient walk upon which they can proceed in going to and from their quarters. The entire cost of the sidewalk and edge stone for the distance along the military reservation will not exceed $3,000. The matter has been brought to the attention of the Quartermaster General, and he is ready to pay one-half of that expense if he can have the authorization from Congress.

Mr. SHERLEY. Will the gentleman yield?

Mr. ROBERTS of Massachusetts. Certainly.

Mr. SHERLEY. The fortification which the gentleman says the people of the town object to is part of the defenses of Boston, is it not?

Mr. ROBERTS of Massachusetts. Yes.

Mr. SHERLEY. Does the gentleman recall the attitude of that section of the country during the Spanish-American War touching seacoast defense?

Mr. ROBERTS of Massachusetts. Oh, I recall it very well indeed, but the fact is that the town of Winthrop is no part of Boston. It is a separate community, and this burden of a military reservation, from which the town derives no benefit whatever, has been placed upon them against their will and desire. The case is not like that of a public building located in a community. In those cases the people of the community come down here personally, write letters, or importune their Members to secure a public building for their town.

Mr. SHERLEY. If the gentleman will permit, what I wanted really to find out was whether any part of the State of Massachusetts was desirous of having the defenses for the protection of Boston removed.

Mr. ROBERTS of Massachusetts. The people of Winthrop would like to have those particular forts located in some other locality. I presume the question might be called a selfish one. They would like to have the defense, but they would like to have it located in some other fellow's town.

The point I make is this: Here is a small town of ten or twelve thousand population. It happens to be so located geographically that the War Department conceived the project of locating in it a fort. The fort is a serious detriment to the town, not only because it takes a certain amount of taxable property out of the town valuation, but also because it stands there as a dog in the manger, as it were, stopping any town development, because the War Department, unless specifically authorized, has no power to spend any of that money.

The CHAIRMAN. The time of the gentleman has expired.

Mr. ROBERTS of Massachusetts. I want to say one word further in a minute of time, Mr. Chairman.

The CHAIRMAN. The gentleman asks for one minute more. Is there objection to the gentleman's request?

There was no objection.

The CHAIRMAN. The gentleman from Massachusetts is recognized for one minute more.

Mr. ROBERTS of Massachusetts. Mr. Chairman, the chairman of the Committee on Military Affairs, to whom I submitted the amendment, is agreeable to this going on the bill, and I hope the gentleman from Illinois [Mr. FOSTER] will not, under these circumstances, raise a point of order. I concede, under the circumstances, a point of order would be sustained.

Mr. MURRAY. Mr. Chairman, may I ask my colleague from Massachusetts [Mr. ROBERTS] a question?

Mr. HAY. I insist, Mr. Chairman, on having the point of order either made or not made. We must hurry on with this bill.

The CHAIRMAN. That rests with the gentleman from Illinois [Mr. FOSTER] to reserve the point of order.

Mr. HAY. I understand that, Mr. Chairman.

The CHAIRMAN. Anybody can make the point of order.

Mr. HAY. I understand that; but the debate on the point of order proceeds under unanimous consent.

The CHAIRMAN. Yes; to this extent, that in order to cut it off somebody must make the point of order.

Mr. HAY. I will yield two minutes to the gentleman from Massachusetts [Mr. MURRAY].

Mr. MURRAY. Mr. Chairman, the town of Winthrop is in the district I now represent, but it has been taken out of the district from which I have been elected to the Sixty-third Congress, so that my interest in the matter is not at all political. It is based entirely on what I believe to be the justice of the situation.

I can not hope to add anything to the lucid explanation that has been given by the gentleman in whose district this town has been placed by the redistricting of the Massachusetts Legislature. I simply wish to join with him in an earnest request to the gentleman from Illinois [Mr. FOSTER] to withhold his point of order, because I am sure if he were made to appreciate the situation and circumstances that exist there, which my colleague, Mr. ROBERTS, and I know to exist, he would not put a point of order in the way, but would assist us in getting this matter straightened out by means of the proposed amendment. I hope the gentleman from Illinois will not insist upon his point of order.

Mr. FOSTER. Mr. Chairman, I realize that the gentleman from Massachusetts [Mr. ROBERTS] has offered an amendment which is important to the city of Winthrop, in his locality, but I suggest that there are hundreds of other cases all over the United States that are just as meritorious, and if you enter upon the policy of making this improvement, which the Government has never done, I do not think that we ought to do it in this way unless we also take care of other cases, and I therefore make the point of order.

The CHAIRMAN. The point of order is sustained. The Clerk will read.

The Clerk read as follows:

Water and sewers at military posts: For procuring and introducing water to buildings and premises at such military posts and stations as from their situation require it to be brought from a distance; for the installation and extension of plumbing within buildings where the same is not specifically provided for in other appropriations; for the purchase and repairs of fire apparatus, including fire-alarm systems; for the disposal of sewage, and expenses incident thereto, including the authorized issue of toilet paper; for repairs to water and sewer systems and plumbing within buildings; and for hire of employees, $1,519,290.

Mr. HAY. Mr. Chairman, I offer an amendment, to come in as a new paragraph immediately after the paragraph that has just been read.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Virginia [Mr. HAY].

The Clerk read as follows:

On page 32, after line 13, insert, as a new paragraph, the following: "Construction and maintenance of military and post roads, bridges, and trails, Alaska: For the construction, repair, and maintenance of military and post roads, bridges, and trails in the District of Alaska, to be expended under the direction of the board of road commissioners described in section 2 of an act entitled 'An act to provide for the construction and maintenance of roads, the establishment and maintenance of schools, and the care and support of insane persons in the District of Alaska, and for other purposes,' approved January 27, 1905, as amended by the act approved May 14, 1906, and to be expended conformably to the provisions of said act as amended, $100,000."

Mr. HAY. Mr. Chairman, by some inadvertence that paragraph was not included in the bill.

Mr. MANN. I suggest that where the term "District of Alaska" first appears it should be changed to "Territory of Alaska." Where it appears the second time it should be "Territory of Alaska" instead of "District of Alaska."

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Illinois.

The Clerk read as follows:

In the fourth line of the amendment, change the word "District" to "Territory."

The CHAIRMAN. The question is on agreeing to the amendment to the amendment.

The amendment to the amendment was agreed to.

The CHAIRMAN. The question now is on agreeing to the amendment as amended.

The amendment as amended was agreed to.

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. FITZGERALD having taken the chair as Speaker pro tempore, a message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had passed bills and joint resolution of the following titles, in which the concurrence of the House of Representatives was requested:

S. 4547. An act to provide for the erection of a public building at Aberdeen, Wash.;

S. 4545. An act to provide for the erection of a public building in the city of Ellensburg, in the State of Washington; and

S. J. Res. 155. Joint resolution extending the privilege of the proviso of section 2 of the act of June 7, 1906, to persons using alcohol for testing citrus fruits.

ARMY APPROPRIATION BILL.

The committee resumed its session.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Barracks and quarters, Philippine Islands: Continuing the work of providing for the proper shelter and protection of officers and enlisted men of the Army of the United States lawfully on duty in the Philippine Islands, including repairs and payment of rents, the acquisition of title to building sites, and such additions to existing military reservations as may be necessary, and including also shelter for the animals and supplies, and all other buildings necessary for post administration purposes, $500,000: *Provided*, That no part of said sum shall be expended for the construction of quarters for officers of the Army the total cost of which, including the heating and plumbing apparatus, wiring and fixtures, shall exceed in the case of quarters of a general officer the sum of $8,000; of a colonel or officer above the rank of captain, $6,000; and of an officer of and below the rank of captain, $4,000.

Mr. HELM. I move to strike out the paragraph.

Mr. Chairman, I observe that this appropriation is part of a $6,000,000 scheme to erect concrete barracks and quarters in the Philippine Islands; also for stables for the Cavalry stationed in those islands.

The Democratic Party in convention has three times gone on record as opposed to imperialism and a colonial exploitation in the Philippine Islands or elsewhere. I believe that at the extra session soon to be called the Democrats will present and pass a bill declaring for the independence of the Philippine Islands, and it occurs to me that it is unwise at this time to expend further sums of money upon an enterprise of this character. This appropriation is for $500,000. If it is to result in the very near future that our Government is to strike tents and pull away from the Philippine Islands and turn that archipelago over to the people of the islands, it occurs to me that this is an additional unnecessary charge upon our Treasury.

According to Senate Document 416, Fifty-seventh Congress, first session, the Philippine Islands for the fiscal years 1898 to 1902 cost this Government over $170,000,000.

I also find that the Chief of Staff reports, in the hearings before the Committee on Expenditures in the War Department, that since the treaty of Paris was adopted to July 1, 1911, that portion of the United States Army that we were compelled to have in the Philippine Islands cost this Government $167,486,403 more than it would have cost to have kept the same number of soldiers in the United States.

Mr. SHERWOOD. You are not counting the pensions paid to the dependent relatives of soldiers who lost their lives in the Philippine Islands, $5,000,000 more.

Mr. HELM. I think the gentleman's statement is reasonably correct. I do not believe these two sums of money which I have mentioned cover one-tenth of the cost entailed upon our Government by reason of our possession and control of those islands.

The CHAIRMAN. The time of the gentleman from Kentucky has expired.

Mr. HELM. I ask unanimous consent for five minutes more.

The CHAIRMAN. The gentleman from Kentucky asks unanimous consent to address the House for five minutes more. Is there objection?

There was no objection.

Mr. HELM. In response to a resolution introduced by the gentleman from Ohio, Mr. Cox, asking the President of the United States to inform Congress as to the total cost to the United States of the occupation of the Philippine Islands, after referring to the two items which I have mentioned, the President, in his response to that resolution, says:

The total amount thus expended can not be determined with any degree of accuracy.

Mr. SHERWOOD. The Anti-Imperialistic League of Boston has estimated the cost of the Philippines to the Government of the United States to be over $1,000,000,000 up to a year ago.

Mr. MANN. Does anybody think that the estimate of the Anti-Imperialistic League is any better than the estimate of the officials of the Government who have reported to Congress on the subject?

Mr. HELM. The trouble about the report that we got from the President of the United States is that he says it is impossible to estimate the actual cost that these islands have entailed upon our Treasury. And if there is anybody who ought to be in a position to know, it is the President of the United States, because he has been governor of those islands. He was Secretary of War, and he is in a position to obtain more information than any other one officer in the United States. He virtually says that proposition is absolutely beyond his grasp,

and that there is no way of estimating what the islands are costing this Government.

Now, I submit, that government has its business features. The Government of the United States is a business proposition, and if we are engaged in conducting a kind of side show, which it is impossible to tell the cost of to us, it seems to me it is about time that we were getting rid of this side show.

There is no doubt that the next House and the next Senate will be Democratic. The next President of the United States will be a Democrat.

Mr. MANN. By title.

Mr. HELM. You will find that he will be a good performer as a Democrat, and furthermore you will find that he is standing squarely upon the Baltimore platform, which declares for the independence of the Philippine Islands.

Mr. HAMILTON of Michigan. It is not where he is standing, but which way he is moving that is important.

Mr. HELM. He is moving away from those islands. [Applause on the Democratic side.]

Mr. MANN. That is what Cleveland did as to the Hawaiian Islands.

Mr. HELM. With this program confronting us, it has occurred to me that it is an unwise proposition for this House now to appropriate this sum of money for that purpose. There will be abundance of time at the extra session of Congress. If the bill declaring the independence of the islands does not become a law in this Congress, then this appropriation can be made at the extra session. It seems to me to be the wise thing and the proper thing not to make any further appropriations of good American money to be expended in the Philippine Islands.

The CHAIRMAN. The time of the gentleman from Kentucky has again expired.

Mr. HAY. I do not know what policy is to be pursued hereafter with regard to the Philippine Islands. I do not suppose that anybody knows just what policy is going to be pursued. At all events, the bill which has been considered does not propose to abandon these islands until 1921, which is seven years from now.

This proposition is not for the benefit of the Philippine Islands. It is for the benefit of the soldiers of the United States, and, in my judgment, no matter what policy may be hereafter pursued by this Government in regard to these islands, it is our duty, so long as we retain them, and so long as we have troops there, to furnish them proper shelter and proper care. [Applause.]

Mr. HELM. We have had troops in the Philippine Islands how long?

Mr. HAY. We have had troops there since 1898.

Mr. HELM. Have they not been properly quartered and sheltered and cared for since that date?

Mr. HAY. They have been quartered and sheltered in a certain way, but not in a proper way. The evidence is that some of the quarters that they have been occupying are now made of grass, branches of trees, and lumber from the United States which has been destroyed by the insects peculiar to those islands, and it is absolutely necessary for their comfort and proper shelter that some of this money shall be expended in providing permanent shelter for them which will not be destroyed by typhoons and insects.

Mr. HELM. Does the gentleman think it is a wise thing to spend $5,000,000 in view of the position that the Democratic Party has taken concerning these islands?

Mr. HAY. I know of no scheme to spend $5,000,000.

Mr. HELM. Is not this a part of a scheme to expend $5,000,000 in the Philippines?

Mr. HAY. I do not know what scheme the present administration has. I do not think that any scheme of the present administration will be the scheme of the next administration, either as to the building of posts in the Philippine Islands or in this country. If the gentleman was as familiar as I am with the changing opinions of the Secretary of War and the Chief of Staff now, he would know that nobody on earth could tell what the next Secretary of War or the next Chief of Staff would do about these matters.

Mr. HELM. The gentleman is aware that in the hearings had on this present bill, on page 399, it is stated that this appropriation is a part of the scheme there set forth to appropriate $5,000,000 for the purpose I have stated.

Mr. HAY. I am aware that the present administration of the War Department proposes to spend a certain amount of money in the Philippines, but the point I am getting at now is that this $500,000 is and ought to be spent specifically as stated by the Chief of the Quartermaster Corps, for the building of shelter for the troops and animals and for the repair of barracks which they already have there.

Mr. HELM. I do not understand that the troops are without shelter.

Mr. HAY. Not all of them, but some of them are very inadequately sheltered.

Mr. HELM. Can the gentleman inform me how much has been expended in the construction of barracks and quarters for the soldiers in the Philippine Islands?

Mr. HAY. I can not, for I have not the figures before me; but I want to call the attention of the committee to the Chief Quartermaster's statement in the hearings where he says:

> Mr. SLAYDEN. How are those troops sheltered now?
> Gen. ALESHIRE. At Fort Kiethley, for instance, they are using nipa, which is a native palm or grass, for the construction of shelter. They use the branches of trees, etc., and they are trying to build permanent concrete structures. Of course, there has been a great deal of money spent over there for buildings, the same as has been done in this country, to provide accommodations and shelter at temporary posts. These Army posts were necessary once, but are no longer needed. They have also constructed buildings from lumber from this country which have been blown away by typhoons. In fact, these frame buildings do not stand a typhoon much better than the native shacks.

The CHAIRMAN. The time of the gentleman from Virginia has expired.

Mr. HAY. I ask for five minutes more.

The CHAIRMAN. The gentleman from Virginia asks that his time be extended five minutes. Is there objection?

There was no objection.

Mr. HAY. Now, Mr. Chairman, whatever may be the policy which is to be pursued with regard to these islands, whatever may take place in the future, I for one, who am in a measure charged with the responsibility for the appropriations for the Army of the United States, do not propose to assume the responsibility of refusing a reasonable, right, and proper appropriation for the shelter and accommodation of the Army. [Applause.]

Mr. HELM. Will the gentleman yield?

Mr. HAY. For a question.

Mr. HELM. I notice that in the proviso of this appropriation it is stated that the quarters of a general officer shall not exceed a cost of $8,000, a colonel or officer above the rank of captain, $6,000, and an officer of and below the rank of captain, $4,000. Is it not a fact that the present policy of the War Department, instead of constructing barracks and quarters for the soldiers, is giving them commutation of quarters and permitting the officers to secure their own quarters instead of constructing such quarters, as they have at Fort Myer and elsewhere?

Mr. HAY. I know of no such policy. I think the policy of the department is, and always has been, to construct the quarters at military posts, and only to construct quarters for the accommodation of officers who may be stationed at these posts.

Mr. HELM. Mr. Chairman, is it not a fact that the present policy of the War Department is to quarter the troops close to the large cities, where they can secure quarters instead of constructing buildings or houses to quarter the men; and if that is the policy, how do they square that policy with the policy of expending these sums of money in the Philippine Islands for the construction of quarters, or a policy that they condemn?

Mr. HAY. Mr. Chairman, I do not understand that that is the policy of the War Department. The proviso in this bill is a limitation on the appropriation for the purpose of keeping down the cost of these quarters for officers.

Mr. HELM. They have the same thing here, do they not?

Mr. HAY. No.

Mr. HELM. Does not the colonel and the general and the captain, and so forth——

Mr. HAY. As I understand, they spend as much as $12,000 for quarters for a general officer and $10,000 for those officers above the rank of captain and $6,000 for officers of the rank of captain.

Mr. HELM. And the cost of construction is represented as being more over there in the Philippines than it is here.

Mr. HAY. Of course it is more expensive to construct quarters there than it is here. They have to transport the material there. They are now constructing buildings of concrete, which are permanent, and to be less expensive than to put up quarters from timber, which is liable to be destroyed on account of the climate of those islands.

Mr. SHERWOOD. Mr. Chairman, I will ask the gentleman from Virginia what is the number of soldiers now in the Philippine Islands?

Mr. HAY. I think there are now in the Philippine Islands about 13,000 soldiers.

Mr. SHERWOOD. What is the necessity for so many soldiers, when Spain kept only about 1,200 soldiers on the islands?

Mr. HAY. I could not tell the gentleman the necessity for keeping that number of soldiers there, unless it be that the islands are scattered. It is a large archipelago, and the inhabitants are scattered all over it. The troops have to be stationed in various places there, and to preserve order it is necessary to have these troops.

Mr. SHERWOOD. The presumption is that the people of those islands are still disloyal to the United States Government?

Mr. HAY. I would not say to the gentleman what the presumption is.

Mr. SHERWOOD. Otherwise there would be no necessity for such an Army there.

Mr. HAY. I do not know whether they are disloyal or not.

Mr. KAHN. Mr. Chairman, if the gentleman will permit, I believe the department has ordered home four regiments of Infantry and two of Cavalry, so that the number of troops in the islands is materially decreased.

Mr. HAY. But they have filled up the regiments they have kept there to their full strength.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. JONES. Mr. Chairman, I make the request that I may be permitted to address the House for 30 minutes. This is the first time during this session of Congress that I have taken up, or asked to take up, one moment of the time of the House, and I hope that the request will not be opposed.

Mr. HAY. Mr. Chairman, I do not want to cut off the gentleman from discussing the future policy of the Government with regard to the Philippine Islands, but if the gentleman makes a speech of 30 minutes some one else will want to make a speech of 30 minutes. If the committee is, then I am willing to hear the gentleman for 30 minutes, provided that will be the end of the discussion.

Mr. SHERLEY. Mr. Chairman, I desire to say to the gentleman that I do not want to let go unchallenged certain statements as to what is to happen in the future relative to the Philippines, when I do not agree with those statements at all, and I should feel that the other side of any discussion should have an equal opportunity to present its views.

Mr. JONES. Mr. Chairman, I wish to say to my friend from Kentucky, who seems to be afraid that I wish to enter upon a discussion of the whole Philippine question, that I understand quite well that he does not agree with me in my position as to the Philippines, but that such is not my purpose. I propose to confine my remarks, in the main, to the subject now being discussed, but I also wish to comment briefly upon a speech which the President of the United States is reported to have made before the Ohio Society in New York City on Saturday night last. I do not propose to go into the question of the capacity or fitness of the Filipino people for self-government; I do not propose to discuss that subject at this time; but, Mr. Chairman, the President is alleged to have said—and that bears upon this very point——

Mr. HAY. Mr. Chairman, I ask unanimous consent that this discussion may proceed for 40 minutes, 20 minutes to be consumed by the gentleman from Virginia and 20 minutes on the other side.

Mr. MANN. Mr. Chairman, well, that it is very liberal; has the gentleman eliminated this side of the House?

Mr. HAY. I said on the other side; I have no objection; I will yield time to the gentleman.

Mr. MANN. That is not the way the gentleman put it. Now, I suggest to the gentleman from Virginia that when this bill is passed there will be general debate on the river and harbor bill which is pending, there will be general debate on the fortifications bill which is pending, and it is hardly fair when the House, is considering an appropriation bill under the five-minute rule, to inject another subject entirely in the way of general debate——

Mr. JONES. Mr. Chairman, I do not propose to inject another subject. I will state to the gentleman frankly that the President of the United States is reported to have said that the expenses of our military operations in the Philippine Islands, to use his own words, were practically nil, meaning thereby, I suppose, nothing. This bill carries something less than $2,000,000 to pay Philippine scouts in the Philippine Islands and to build shelter for our troops there, and as bearing upon this question I wish to show the House, if I can, by facts and figures, that President Taft is very much misinformed if he thinks our expenditures for military purposes in the Philippines have been practically nothing. Now, that statement has gone all over the country, and I feel that the sooner it can be answered the better it will be for a correct understanding of this subject, and I hope my friend from Illinois will not object to my now undertaking to do so. The facts should be known.

Mr. MANN. The gentleman will recall the resolution which passed the House asking the President, as soon as possible, to ascertain and let us know what the expenses were caused by the Philippine Islands.

Mr. JONES. Does the gentleman know what the President's reply to that was—that the problem was insoluble?

Mr. MANN. I do; he replied what everybody ought to have known, what he ought to have replied—that nobody could tell. If the gentleman wants to introduce this subject into the House and spend a day or two discussing it, and if gentlemen on that side of the House think the appropriation bills are far enough along so we can spend a lot of time discussing a subject that is not going to be brought before the House at this session, why, I am quite willing to do it; but if the gentleman is going to enter upon that subject, either on this bill or subsequent bills, we will demand time on this side of the House.

Mr. JONES. I certainly shall be glad for the gentleman to have it.

The CHAIRMAN. The request of the gentleman from Virginia was that 20 minutes be occupied by the gentleman from Virginia [Mr. JONES] and 20 minutes be occupied by some one opposing the views presented by the gentleman from Virginia.

Mr. MANN. I understood that was the request, Mr. Chairman; but this opens up a subject that will have to be discussed on the next bill under general debate in all probability.

Mr. JONES. Will the gentleman permit me to address one remark to him? The gentleman said this debate could take place on the river and harbor bill. I understand the Committee on Rivers and Harbors do not intend to permit any general discussion upon their bill, and this bill can easily be finished before the end of to-day. It does seem to me that, in view of the importance of this subject and in view of the recent statement which the President is credited with having made in the city of New York, which has gone all over the country, I should be permitted a few moments in which to give to the House the real facts of the case——

Mr. HELM. Mr. Chairman, I can not conceive of a more opportune time or occasion for a discussion of this Philippine proposition than this present moment. The last time this bill was up before the House we spent about three or four hours discussing polo ponies; but when you meet a vital, important proposition for discussion under the five-minute rule, then time suddenly becomes so precious and so valuable that we must hurry on post haste to some other matter.

Mr. PRINCE. Mr. Chairman——

The CHAIRMAN. Does the gentleman yield?

Mr. HELM. In just a moment. It has been my observation that whenever we have general debate discussion goes far afield, and then it is stated that the time to discuss propositions of this kind is under the five-minute rule; and when we get under the five-minute rule, then we must go back to general debate. It does seem to me that this is a pertinent question and that now is the time for its best discussion, when the Members can best comprehend it and understand the proposition better than any other time, and therefore I move that the gentleman from Virginia [Mr. JONES] have 30 minutes and some gentleman in opposition to the proposition have 30 minutes.

Mr. MANN. Mr. Chairman, it is now 20 minutes of 2 o'clock. We have read one page of this bill to-day. There are 10 or 12 more pages to be read. If gentlemen on that side of the House think they can afford to take up the time in discussing extraneous matter, I am not going to object. I do not want to hear gentlemen afterwards complain that this side of the House is delaying appropriation bills, because the chances are that if this matter gets into the debate the appropriation bills will not all become laws at this session of Congress.

Mr. COX. We would not do that.

Mr. MANN. You would not do that? That is what we will hear the last month of the session.

Mr. JONES. If the gentleman will yield time to me on the river and harbor bill, I will withdraw my request.

Mr. SHERLEY. I have no objection to yielding it to the gentleman on the fortification bill.

Mr. JONES. I would like to ask the gentleman from Kentucky [Mr. SHERLEY] when the fortification bill will be before the House?

Mr. SHERLEY. I hope to bring it before the House immediately following the river and harbor bill, if not immediately preceding.

Mr. JONES. Will it be during this week?

Mr. SHERLEY. I think it will, unquestionably.

Mr. JONES. Some of my friends here think I ought to insist on being given time now. As I can not get this consent, however, except by unanimous consent, and as opposition has developed, if the gentleman will promise me an hour on the fortification bill I will reluctantly withdraw my request, although I feel, Mr. Chairman, that this matter ought to be discussed at this time.

Mr. SHERLEY. I do not desire either that the gentleman ought to press or withdraw his request; but I am perfectly willing, being in charge of the fortification bill, to grant him an hour's time, although I am opposed to his views.

Mr. JONES. The gentleman can not know that he is opposed to my views, because he has not heard them.

The CHAIRMAN. Does the gentleman from Virginia [Mr. JONES] withdraw his request?

Mr. JONES. With that understanding I withdraw the request.

Mr. KAHN. Mr. Chairman, there is an amendment pending.

Mr. HAY. The amendment was the one offered by the gentleman from Kentucky, to strike out the paragraph.

Mr. GARRETT. Will the gentleman from Virginia [Mr. HAY] permit me a question right there?

Mr. HAY. Surely.

Mr. GARRETT. In lines 16 and 17, page 32, I find this:

Officers and enlisted men of the Army of the United States lawfully on duty.

I was just wondering as a matter of curiosity what that word "lawfully" means in that connection.

Mr. HAY. I presume it means officers or enlisted men who are ordered by the President of the United States on duty in the Philippine Islands. In other words, it means what it says.

Mr. GARRETT. It seems rather a strange expression.

Mr. HAY. It always has been in the bill.

Mr. GARRETT. I thought perhaps it might have some technical meaning, I will say to the gentleman.

Mr. HAY. My recollection is that the history of this item in the bill is that when it was first offered a point of order was made and an amendment was very skillfully drawn by the gentleman from Illinois [Mr. CANNON], who was then chairman of the Committee on Appropriations.

Mr. MANN. That is correct. That is the way the word got in there.

Mr. HAY. It has a technical meaning that makes it in order.

Mr. GARRETT. As a matter of information, inasmuch as I would like to learn these things, I would be glad to have the gentleman inform me what the technical meaning is.

Mr. MANN. If the gentleman will pardon me, there was an item in this bill, or some other bill, to which an amendment was offered, against which a point of order was made and sustained on the ground, I think, that we had no authority to construct these quarters in the Philippine Islands, but if they were lawfully there we did have the authority. Thereupon the item was drawn accordingly.

Mr. HAY. I remember it very well.

Mr. GARRETT. The constitutional and legal questions which were raised at that time brought about the use of this word?

Mr. MANN. Undoubtedly.

Mr. GARRETT. And the preservation of it in the bill retains the doubt?

Mr. MANN. I have no doubt myself. It was not a doubt of our right to have the troops in the Philippine Islands, but our right to construct barracks. That was all.

Mr. GARRETT. And it has been carried in the bill since that time because of the still unsettled policy of this Government with respect to the Philippine Islands?

Mr. MANN. It has been carried in the bill because it is the custom to copy the current law into a bill. There is no special reason for changing it.

Mr. GARRETT. That is the opinion of the gentleman from Illinois [Mr. MANN] about it. I was wondering what the gentleman from Virginia would say about that.

Mr. HAY. My opinion is it has been carried in the bill every year because it was put there in the first place.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Kentucky [Mr. HELM].

The question was taken, and the amendment was rejected.

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES.

The committee informally rose; and Mr. SHERLEY having taken the chair as Speaker pro tempore, a message in writing from the President of the United States was communicated to the House of Representatives by Mr. Latta, one of his secretaries, who also informed the House of Representatives that the President had approved and signed bills of the following titles.

On January 7, 1913:

H. R. 10169. An act to provide for holding the district court of the United States for Porto Rico during the absence from the island of the United States district judge and for the trial of cases in the event of the disqualification of or inability to act by the said judge.

On January 8, 1913:

H. R. 10648. An act amending an act entitled "An act to authorize the registration of trade-marks used in commerce with foreign nations or among the several States or with the Indian tribes, and to protect the same."

On January 21, 1913:

H. R. 20339. An act for the relief of Joseph W. McCall.

ARMY APPROPRIATION BILL.

The committee resumed its session.

The Clerk read as follows:

MEDICAL DEPARTMENT.

Medical and Hospital Department: For the purchase of medical and hospital supplies, including ambulance and disinfectants, and the exchange of typewriting machines, for military posts, camps, hospitals, hospital ships, and transports; for expenses of medical supply depots; for medical care and treatment not otherwise provided for, including care and subsistence in private hospitals of officers, enlisted men, and civilian employees of the Army, of applicants for enlistment, and of prisoners of war and other persons in military custody or confinement, when entitled thereto by law, regulation, or contract: *Provided*, That this shall not apply to officers and enlisted men who are treated in private hospitals or by civilian physicians while on furlough; for the proper care and treatment of epidemic and contagious diseases in the Army or at military posts or stations, including measures to prevent the spread thereof, and the payment of reasonable damages not otherwise provided for, for bedding and clothing injured or destroyed in such prevention; for the pay of male and female nurses, not including the Nurse Corps (female), and of cooks and other civilians employed for the proper care of sick officers and soldiers, under such regulations fixing their number, qualifications, assignment, pay, and allowances as shall have been or shall be prescribed by the Secretary of War; for the pay of civilian physicians employed to examine physically applicants for enlistment and enlisted men, and to render other professional services from time to time under proper authority; for the pay of other employees of the Medical Department; for the payment of express companies and local transfers employed directly by the Medical Department for the transportation of medical and hospital supplies, including bidders' samples and water for analysis; for supplies for use in teaching the art of cooking to the Hospital Corps; for the supply of the Army and Navy Hospital at Hot Springs, Ark.; for advertising, laundry, and all other necessary miscellaneous expenses of the Medical Department, $750,000.

Mr. MOORE of Pennsylvania. Mr. Chairman, I would like to ask the chairman of the committee if the War Department builds ships or transports, or whether it has adopted the practice of purchase?

Mr. HAY. I can say to the gentleman that the department is not now engaged in building any transports or ships. The department does have ships and boats constructed.

Mr. MOORE of Pennsylvania. But nowhere in this bill is an appropriation made for the construction of a ship or a transport?

Mr. HAY. No; there is not.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

ORDNANCE DEPARTMENT.

Ordnance service: For the current expenses of the Ordnance Department, in connection with purchasing, receiving, storing, and issuing ordnance and ordnance stores, comprising police and office duties, rents, tolls, fuel, light, water, and advertising, stationery, typewriters and adding machines, including their exchange, and office furniture, tools, and instruments of service; for incidental expenses of the ordnance service and those attending practical trials and tests of ordnance, small arms, and other ordnance stores; for publications for libraries of the Ordnance Department, including the Ordnance Office; subscriptions to periodicals which may be paid for in advance, and payment for mechanical labor in the office of the Chief of Ordnance, $300,000.

Mr. SHERLEY. Mr. Chairman, I will ask the gentleman whether this item carries any sum for ammunition of any sort, or does that follow subsequently?

Mr. HAY. It does not. The item that comes immediately afterwards carries ammunition.

The CHAIRMAN (Mr. DENT). The Clerk will read.

The Clerk read as follows:

Ordnance stores—Ammunition: Manufacture and purchase of ammunition and materials therefor for small arms for reserve supply; ammunition for burials at the National Soldiers' Home in Washington, D. C.; ammunition for firing the morning and evening gun at military posts prescribed by General Orders, No. 70, Headquarters of the Army, dated July 23, 1867, and at National Home for Disabled Volunteer Soldiers and its several branches, including National Soldiers' Home in Washington, D. C., and soldiers' and sailors' State homes, $200,000.

Mr. SHERLEY. Mr. Chairman, I offer the following amendment at the end of the paragraph.

The CHAIRMAN. The gentleman from Kentucky [Mr. SHERLEY] offers an amendment, which the Clerk will report.

The Clerk read as follows:

On page 41, at the end of line 21, insert the following: "*Provided*, That no part of this sum shall be expended in the purchase of ordnance powder at a price in excess of 53 cents or for small-arms powder in excess of 65 cents per pound."

Mr. MANN. Where does that come in?

Mr. SHERLEY. At the end of the paragraph, at the end of line 21.

Mr. Chairman, the subcommittee on fortifications of the Committee on Appropriations undertook a rather elaborate investigation into the cost of powder. It had before it not only the officers of the Army and Navy who have been engaged in the manufacture of powder, but it also had before it a representative of the Du Pont people and a Mr. Waddell, who had been a manufacturer of powder and was a severe critic of the policy of the Government touching the purchase of powder and the price paid for it.

As a result of this very elaborate hearing the committee came to the conclusion that we were paying a price for powder that is unwarranted, and that the price proposed in the amendment that I have offered represents a fair price to the manufacturer, having in view all of the proper factors touching the cost of making the powder and the hazardous nature of the business.

There will be found in the report of the committee certain tables published from the hearings, which show that the cost to the Government of manufacturing powder at the Army arsenal is 40.43 cents; that at the Du Pont works, basing the cost there on the cost at the Government works and adding thereto such other items as should be properly credited to a private concern and which should not be charged as against a Government concern, the cost of powder was 50.15, and that included an item of 5½ cents a pound as representing interest at 5 per cent on $5,500,000 invested by the Du Pont people.

Now, we did not believe that it was proper in arriving at a sale price to first consider interest on the entire capital invested and then subsequently figure a profit on the cost price arrived at. So, eliminating the 5½ cents per pound from the cost, it will be observed that the cost to the Du Pont people, according to this table, is 44.06 cents. Twenty per cent profit on that would bring the cost of powder to a fraction over 53 cents per pound.

I am now speaking of ordnance powder. Now, the figures submitted by the Navy as to the cost of manufacturing powder at the Navy arsenal and the cost upon their basis to the Du Pont people gave 48.95 cents a pound. Also carrying into the computation 5½ cents as interest upon the investment of $5,500,000 and subtracting that from the figures you get 43.6 cents—very close to the figures of the Army; and, figuring 20 per cent on that, you get as a selling cost something under 53 cents.

Now, it will be observed that in arriving at this cost to the Du Pont people, we have taken into consideration what may be called the factory cost, then depreciation of the plant, insurance, rejections, freight, pensions, stock bonuses, selling expenses, experimentation, administration, and all of the items that could by any argument properly be considered; and having considered those, you have presented to you the proposition of an ordinary manufacturing concern. We think that that being so, 20 per cent profit upon the cost price is certainly a fair sale price.

Mr. MADDEN. Does the depreciation charge include losses by explosions?

Mr. SHERLEY. We figured depreciation separately from loss by fire direct, but I mentioned that as showing that we have gone to the extreme in allowing for any proper charge due to the hazardous character of the business. Having allowed that, you have presented the case of an ordinary business. Twenty per cent profit upon the cost price ought, in our judgment, to satisfy any going concern. We have presented this as our judgment, as the result of a very elaborate investigation.

As to small-arms powder, while we did not go into that in detail, because the bill that we were dealing with does not deal with small-arms powder, but only with ordnance powder, the testimony is that it costs about 10 cents per pound more for small-arms powder than it does to make ordnance powder. In arriving at the figure of 65 cents a pound I have figured 11 cents as an addition to the cost to the manufacturer, and then upon that have added 20 per cent profit, which brought me to approximately 65 cents as representing a proper cost for small-arms powder.

Mr. MADDEN. How much saving would that indicate?

Mr. SHERLEY. We are now paying 60 cents for ordnance powder and heretofore have paid as high as 75 cents, I think, for small-arms powder.

Mr. HAY. As high as 80 cents.

Mr. SHERLEY. Seventy-five and eighty cents. I understand a limitation of 71 cents for small-arms powder was placed upon one of the bills, and that contracts have not yet been made under that bill, but I have no reason to doubt—and I am prepared to say to this committee that after a very careful examination I believe the price suggested in the proposed amendment is a fair price to the Du Pont people, who are the only manufacturers of this powder for the Government, and that it is a reasonable price for the Government to pay for their powder. They are entitled to a reasonable price. Beyond that they ought not to receive any additional profit. I ask the adoption of the amendment.

Mr. HEALD. May I ask the gentleman a question?

Mr. SHERLEY. Certainly.

Mr. HEALD. I have gone over the hearings which were had upon this subject, and I think the statement made by the gentleman from Kentucky is a fair résumé of these hearings, and that, as he has stated it to the House, he has handled it in a very fair and impartial manner. There is one matter, however, that appeals to me from a different point of view than his, and that is as to the profit to which a private corporation is entitled in the manufacture of smokeless powder. Of course the 20 per cent profit on the manufacturing cost is a different proposition from a return upon invested capital. I want to ask the gentleman if he thinks that 5½ per cent upon the invested capital necessary for the manufacture of smokeless powder is a sufficient profit for a hazardous enterprise of this kind, particularly as an investment return as large as that can be secured with greater safety in other lines of business?

Mr. SHERLEY. My answer to the gentleman is this: In the first instance, I doubt very much whether the Du Pont people are entitled to be credited with a capital investment of five and one-half million dollars. I am not questioning that that may be a book account—that the books may actually show an investment of that amount. But when you consider the amount that is always and properly allowed for depreciation, and when you consider other items, and what we now know to be the cost of creating a plant that would have an output of the capacity of the Du Pont plant, I should think that was an extravagant allowance. That is my first answer. The second answer is that the Du Pont people are not engaged entirely in making powder for the United States, but they are now manufacturing and selling the same kind of powder to other governments, and therefore it is not to be assumed in this computation that you must figure all of their profits upon the sales that they make to the Federal Government. Having in mind these conditions, I think what the committee has recommended is fair. And its recommendation is not an allowance of 5½ per cent on investment, but of 20 per cent on cost of making the powder. I have not worked out and have not the data to determine what per cent on investment is made by the Du Ponts, because I do not know just what their output will be or what they will sell at to others than the Government.

Mr. HEALD. May I ask the gentleman another question?

Mr. SHERLEY. Certainly.

Mr. HEALD. In the manufacture of smokeless powder it has, as the gentleman well knows, heretofore been the practice for the powder company to maintain partially in idleness all the time one of the three plants which they use in its manufacture; the policy of the department being, according to their well-expressed views, to retain in active service the three plants, while, as a matter of fact, only one plant out of the three is actually used at a time, thus requiring on the part of the powder company an investment much larger than would ordinarily be the case. Has the committee taken that into consideration?

Mr. SHERLEY. We did; and it may be that the policy of having idle plants will be discontinued by the Du Pont people. The gentleman will appreciate that it is impossible to undertake to determine with mathematical nicety all the questions such as the gentleman puts. We had no opportunity to examine the figures of the Du Pont people. They declined—and I am not criticizing them for the declination—they declined to submit cost figures. I believe I could demonstrate to this House by a number of reasons why the factory cost of the Government should not be the factory cost of the Du Pont people, and that their factory cost should be less; that there are certain economies that they ought to have over the Government. Yet that is a matter of inference, but we accepted the factory cost to the Government as their cost, and then as to all of the items we added as being properly creditable to the Du Pont people and not chargeable to the Government we take the figures of the Du Pont people as furnished by Col. Buckner a year ago. The best I can say is that the committee diligently inquired, and I think the hearings will show that the diligence was not without reward, to find actual facts, approaching the subject without prejudice, without a desire to do harm to anybody, and the committee united in the view that the prices suggested are reasonable prices.

As justification of the action taken by the committee, the following tables, touching the cost of manufacturing powder at the Picatinny Arsenal and at the Du Pont Works submitted

by Gen. Crozier, and the tables submitted by Admiral Twining of the cost of the manufacture of powder at Indianhead and at the Du Pont Works, found on pages 282 and 301, respectively, of the hearings, are submitted:

TABLE SUBMITTED BY GEN. CROZIER.

Cost of powder at Army factory compared with cost at the Du Pont Works, conditions of operation being similar, i. e., each occupied fully at one shift.

Item.	Picatinny Arsenal, annual output 1,000,000 pounds.	Du Pont Works, annual output 5,000,000 pounds.	Remarks.
Factory cost[1]	$0.3300	$0.3300	Assumed same.
Depreciation:			
Machinery, at 10 per cent	.0202		Taking company's statement of total investment and assuming it divided in buildings, machinery, and materials with same rate of depreciation as for United States.
Factory buildings, at 5 per cent.	.0020	.476	
Other buildings, at 2 per cent.	.0040		
Fire losses	.0070	.0070	
Rejections	.0060	.0060	
Transportation service	.0020	.0020	
Total manufacturing cost.	.3712	.3926	
Selling expenses		.0062	Company's statement for theirs.
Administration	.0126	.0254	Do.
Taxes		.0011	Do.
Experimental work		.0054	Do.
Interest, 3 per cent Government, 5 per cent Du Pont.	.0295	.055	Total investment taken.
Freight		.006	
Stock bonuses		.0015	Company's statement.
Pensions, etc		.0083	Do.
Total cost	.4043	.5015	

[1] The following items are included under factory cost:
(*a*) All material used in the manufacture of powder.
(*b*) All labor, direct and indirect.
(*c*) Manufacture and repair of powder boxes.
(*d*) Current repairs and improvements to buildings.
(*e*) Current repairs and improvements to machinery.
(*f*) Cost of chemical tests.
(*g*) Cost of clerical labor.

TABLES SUBMITTED BY ADMIRAL TWINING.

Cost of powder manufactured at Indianhead, calculated on a basis suitable for comparison with commercial costs.

Invoice price	$0.30511
Overhead charges, not paid from the same appropriation	.08025
Interest	.02210
Total cost to the Government	.40746

The following items taken from the testimony of Col. E. G. Buckner, of the Du Pont Co., before the House Committee on Naval Affairs Feb. 16, 1912. This company being the only one manufacturing powder, it is necessary to take data given by them for this purpose.

Items of cost to a private corporation but not to the Government.

Stock bonuses	$0.00150
Selling expense	.00620
Idle mills	.00730
Taxes	.00110
Total cost of production at private works	.42356

In the statement next following is given an estimate of the cost of powder to a private manufacturer, estimating the same production cost as at Indianhead and adding thereto overhead charges as furnished by Col. E. G. Buckner at the hearing above referred to:

Statement of cost of smokeless powder at a private plant, using Indianhead invoice price for 1912 ($0.30511) and overhead charges obtained from statement of Col. E. G. Buckner, representing the Du Pont Powder Co., before the Committee on Naval Affairs, Feb. 16, 1912.

Invoice price from Indianhead		$0.30511
Interest at 5 per cent	$0.0550	
Depreciation of plants	.03323	
Insurance	.0070	
Rejected powders	.0060	
Powder boxes	.0100	
Freight	.0060	
Tug service	.0020	
		.11923
Pensions and personal liability	.0083	
Stock bonuses	.0015	
Selling expense	.0062	
Administration	.0254	
Experimental	.0054	
Idle mills	.0073	
Taxes	.0011	
		.05320
		.47954
Estimated interest on stock in suspension, at 5 per cent		.01000
Total		.48954

Mr. HEALD. Mr. Chairman, in addition to the questions which I have asked the gentleman from Kentucky and the answers, which have covered the points very thoroughly, I want to say that, in my opinion, the relations between the Government and the powder company in the past have been such that imposed upon them an excessive investment, and that condition exists to-day. The powder company, by the requirements of the departments, is maintaining three plants to obtain the output of only one. Getting away from the necessities of that condition would, of course, create a different condition as to the price of the finished material.

The investigation that Congress and the committee has made into the cost of powder has been very thorough and very complete in the last four sessions of Congress, and I could only wish that the expenditures of the Army and the Navy, aggregating $250,000,000, only 1 per cent of which is expended in ammunition, might meet with the same thorough investigation and examination of prices that has been given to the manufacture of powder. To-day the manufacturers of smokeless powder are meeting that competition which comes from continued probing and examination at the hands of Congress and the exact knowledge which is in the hands of the officers of the War and Navy Departments. And this, I believe, is more effective than competing manufacturers.

This examination, probing, and criticism, however, has been almost entirely confined to the 1 per cent spent for powder, while the 99 per cent spent for guns, battleships, colliers, and other equipment is accepted as a matter of fact, none of which is valuable without the best powder and plenty of it.

Our apparent object might be criticized as being more of a desire to secure a cheap powder than the best powder and enough powder.

Mr. HAY. Mr. Chairman, through the courtesy of the gentleman from Kentucky the Committee on Military Affairs had, after it had completed this bill, an opportunity to see the hearings had on this question as to the price of powder, and we think that the amendment of the gentleman from Kentucky is fair and just, and I hope it will be agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Kentucky.

The question was taken, and the amendment was agreed to.

Mr. SHERLEY. Mr. Chairman, in order to avoid a repetition of this same amendment as to each item covering moneys for ammunition, I ask unanimous consent that the amendment just adopted be modified so as to read:

Provided, That no part of any sum in this act appropriated shall be expended in the purchase of ordnance powder at a price in excess of 53 cents or for small-arms powder in excess of 65 cents per pound.

The reason is simply to prevent a constant repetition of the amendment.

Mr. MANN. What is the proposition?

Mr. SHERLEY. By unanimous consent to amend the amendment just agreed to by providing that no part of any moneys appropriated shall be expended for powder, and so forth, instead of having it relate simply to the particular fund in that paragraph.

Mr. MANN. It only comes in two paragraphs, does it not?

Mr. SHERLEY. No; there are several others, I will say to the gentleman.

Mr. GOOD. There are four paragraphs.

Mr. MANN. There are only four paragraphs in the present law that have a limitation.

Mr. HAY. Yes; but there is a paragraph, on page 44, for storing reserve ammunition for field artillery.

Mr. SHERLEY. It occurred to me that instead of having four provisos we would have one to cover the entire matter.

Mr. MANN. How much do we now pay for ordnance ammunition?

Mr. SHERLEY. We pay for ordnance ammunition now 60 cents. I ask unanimous consent to have the amendment just adopted modified as I have indicated.

The CHAIRMAN. The gentleman from Kentucky asks unanimous consent that the amendment just adopted be modified in the manner indicated by him, which the Clerk will report.

The Clerk read as follows:

Page 41, at the end of line 21, insert the following:

"*Provided*, That no part of any sum in this act appropriated shall be expended in the purchase of ordnance powder at a price in excess of 53 cents, or for small-arms powder at a price in excess of 65 cents per pound."

Mr. MANN. Ought not that to read 53 cents a pound?

Mr. SHERLEY. I think it might be clear to add, after the words "53 cents," the words "per pound," and I will ask unanimous consent that those words be added.

The CHAIRMAN. Without objection, it will be so ordered. Is there objection to the request of the gentleman from Kentucky that the matter now in the bill be modified by the addition of the language just read at the desk?

Mr. BUCHANAN. Mr. Chairman, I would like to ask what is the need of purchasing powder at 53 cents a pound when the Government can manufacture it at about 30 cents a pound? I

would like to have some gentleman state to me any reason why we should buy powder at all when the Government is now prepared to manufacture its own powder, but is operating its equipments only about one-quarter of the time, which naturally makes the powder cost more than if the factories were operated all the time.

Mr. SHERLEY. Mr. Chairman, I will answer the gentleman, first, that you can not make powder for 30 cents, and secondly, that if you run the full capacity of Indianhead and Picatinny you would not be able to make all of the powder that the Government would otherwise buy.

Mr. BUTLER. Or need?

Mr. SHERLEY. Or need.

Mr. BUCHANAN. My information is different from that. We are now equipped to make all of the powder that we use at the present time.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky? [After a pause.] The Chair hears none, and it is so ordered.

Mr. GOOD. Mr. Chairman, I offer the following amendment which I send to the desk and ask to have read, to follow the amendment just adopted.

The Clerk read as follows:

Page 41, to follow the amendment just adopted, add the words:
"The appropriations herein made for ammunition, when expended for manufacture of powder at the powder factory at the Picatinny Arsenal at Dover, N. J., shall be so expended only on the basis of and toward the operation of said powder factory to not less than one-half of the full capacity thereof during the calendar year."

Mr. MANN. Mr. Chairman, I reserve the point of order on that.

Mr. HAY. Mr. Chairman, I make the point of order.

The CHAIRMAN. Does the gentleman from Iowa wish to be heard on the point of order?

Mr. GOOD. Mr. Chairman, the point of order was reserved.

The CHAIRMAN. It was made by the gentleman from Virginia.

Mr. GOOD. Mr. Chairman, this is clearly a limitation. However, if, in the opinion of the Chair, it should appear that that is not clearly a limitation, I have an amendment under which it would be a little more difficult to operate, but which in exact terms is a limitation. This amendment provides that the money that is expended here for powder, in the manufacture of powder at the Government arsenal, shall be expended only upon the basis of keeping the powder plant in operation at one-half of its maximum capacity. Part of this appropriation that is expended for powder will be expended for the purchase of powder. A part of it will be expended for the manufacture of powder. In the testimony before the Committee on Appropriations having to do with fortifications it appears that last year we purchased about 1,000,000 pounds of powder and that we manufactured in the neighborhood of 450 pounds of powder. This provides that, as far as the manufacture is concerned, any money that is appropriated or expended in the manufacture of powder at the Government arsenal shall be expended on the basis of maintaining that plant in operation at one-half of its maximum capacity.

It is clearly a limitation in my opinion and is not subject to a point of order.

Mr. MANN. Will the gentleman permit me to ask him a question?

Mr. GOOD. Certainly.

Mr. MANN. This may not be on the subject of the point of order. Are these factories capable of being run 24 hours a day?

Mr. GOOD. The factory at Indian Head is now run at its maximum capacity of three shifts, 24 hours per day, 8 hours per shift. The factory at Picatinny Arsenal, Dover, is now run at one-sixth of its capacity.

Mr. MANN. That is not what I asked. Is it capable of being run 24 hours a day? I take it it must be if the other is.

Mr. GOOD. It is; and it was the intention, I understand, of Gen. Crozier to increase the output.

Mr. MANN. Now, how are you going to arrange where you have three shifts and require it to be run at 50 per cent of its capacity? Will that be one shift and a half?

Mr. GOOD. The amendment was drawn so that the matter of detail could be left to the Chief of Ordnance, and at times the Chief of Ordnance could run three shifts a day if he so desired, if he found it was in the line of economy to do so, or he could run one shift at a time or two shifts at a time.

Mr. MANN. How can he under this amendment?

Mr. GOOD. This provides that for the calendar year the plant shall be run at one-half of its maximum capacity, not at one-half of its capacity, for every day in the year, when it comes to determining the amount of production for the year. The difference between the cost of manufacturing powder at the Army plant and Navy plant last year was a difference of several cents per pound. The appropriation cost or first cost at the naval plant was only 30½ cents per pound; at the Army plant it was 33 cents a pound; and Gen. Crozier said the difference in cost largely lay in the fact he did not operate the Army plant at anything like the full capacity, but at only one-sixth its full capacity.

Mr. MANN. Well, I do not see how you are going to run the factory for a half a day or go on the theory that you will keep two shifts and operate them part of the time. That is not fair to the men.

Mr. GOOD. The amendment which I have offered does not provide that they shall run two shifts or one shift or three shifts, but it is left so that the production for the whole year shall equal one-half of the maximum capacity of that plant.

Mr. MANN. It provides that the production for the whole year shall equal one and a half shifts a day.

Mr. GOOD. I beg the gentleman's pardon.

Mr. MANN. Three shifts is the maximum capacity of the factory for a year?

Mr. GOOD. Yes.

Mr. MANN. The gentleman's amendment provides for 50 per cent of that maximum capacity; that is equivalent to one and a half shifts per day for a year.

Mr. GOOD. Yes; but it does not——

Mr. MANN. If you are going to run two shifts, run two; if you are going to run one shift, run one; but do not make a proposition which seems to me to provide for a shift and a half. It is neither fair to the Government nor to the men.

Mr. FITZGERALD. Will the gentleman yield for a question?

Mr. GOOD. I yield to the gentleman; I have the floor.

Mr. FITZGERALD. At present the factory at Picatinny Arsenal runs one shift a day, and yet it is only turning out one-sixth of its capacity. Now, one shift is one-third, yet it is only running at one-sixth of its capacity, so that the mathematics of this thing is very peculiar.

The CHAIRMAN. The time of the gentleman has expired.

Mr. GOOD. I ask for two minutes additional.

The CHAIRMAN. Is there objection? [After a pause.] The Chair hears none.

Mr. GOOD. I only want to say to the gentleman from Illinois that this matter was thoroughly considered by the Subcommittee on Appropriations, and we felt we would be hampering the Ordnance Department by providing the number of shifts that were to be run. Matters of detail of that kind were not considered, but looking at the matter in a broader way we took cognizance of the maximum capacity of the plant only, leaving it to the judgment of the Chief of Ordnance as to how many shifts he would work.

Mr. BUCHANAN. Will the gentleman yield?

Mr. GOOD. I will.

Mr. BUCHANAN. I would like to ask the gentleman if there is any stage in the manufacture of powder where it is of great advantage to operate three shifts a day or continuously?

Mr. GOOD. I think that is true.

Mr. BUCHANAN. Has the gentleman any information as to whether that is the fact or not?

Mr. GOOD. Gen. Crozier gave it as his opinion that the reason that it has cost more to manufacture smokeless powder in the Army arsenal than in the Navy was the fact largely that they were running practically at their full capacity in the Navy factory while the Army factory only ran at one-sixth of its capacity.

Mr. BUCHANAN. My information is that powder could be manufactured cheaper where they are running at full capacity of the mill.

Mr. GOOD. I will say, Mr. Chairman, this amendment that I have offered is in the exact language of a provision in the fortification bill, and while I have an amendment that I like a little better than this, yet this was the amendment that was agreed upon, and it reaches the proposition. I have offered it here, and believe it is not subject to a point of order.

Mr. HAY. It is clearly subject to a point of order, because it is directing something to be done affirmatively, and according to the gentleman's own statement it would cost more under this amendment than it costs now. He says the arsenal is now run only at one-sixth of its capacity. This provides it should be run at one-half of the full capacity. I do not think it is in order on this bill anyway, for the reason that the Appropriations Committee deals directly with this arsenal, and the Committee on Military Affairs makes no appropriation for it. It is clearly subject to a point of order.

Mr. GOOD. Will the gentleman yield?

Mr. HAY. I will.

Mr. GOOD. The item to which this is offered is for the manufacture as well as the purchase of ammunition. The same thing might be true of the amendment that was offered limiting the price. Nothing was said with regard to powder when it came——

Mr. HAY. I said nothing about the powder, but the running of the arsenal, which the gentleman's amendment proposes to do.

Mr. GOOD. The manufacture of powder is at the arsenal.

The CHAIRMAN. The clear effect of this amendment is to provide that this particular arsenal shall be run on a basis of not less than one-half time as a minimum requirement. There is more affirmative authority than limitation in this amendment. The Chair sustains the point of order.

Mr. GOOD. Mr. Chairman, I offer the following amendment which I send to the Clerk's desk.

The CHAIRMAN. The gentleman from Iowa offers an amendment, which the Clerk will report.

The Clerk read as follows:

Add to the amendment the following:
"*Provided*, That in expenditures of this appropriation, or any part thereof, for powder, no powder shall at any time be purchased unless the powder factory at the Picatinny Arsenal, at Dover, N. J., shall be operated on a basis of not less than one-half of its full capacity during each calendar year."

Mr. HAY. Mr. Chairman, I make a point of order on the amendment.

The CHAIRMAN. Does the gentleman from Iowa [Mr. GOOD] desire to be heard on the point of order?

Mr. HAY. I think it is subject to the same point of order as the previous amendment.

Mr. GOOD. If any limitation can be placed on this appropriation at all in regard to powder, it is included in the amendment which I send to the Clerk's desk. That is clearly a limitation that not a penny of this appropriation can be expended unless there is the happening of that contingency.

The CHAIRMAN. The Chair thinks this may be fairly held as a mere limitation.

Mr. HAY. I call for a vote on the amendment.

The question was taken, and the Chair announced that the Chair was in doubt.

The committee divided; and there were—ayes 17, noes 31.

Mr. BUCHANAN. Mr. Chairman, I raise the point of no quorum. I do not intend that this Powder Trust shall get in its work of this nature, if I can avoid it.

The CHAIRMAN. Evidently there is no quorum. The Clerk will call the roll.

Mr. BUCHANAN. Mr. Chairman, may I ask if the vote is on the question of this amendment.

The CHAIRMAN. The vote is now simply on the ascertainment of the number of Members present, and not on the amendment.

The Clerk proceeded to call the roll, when the following Members failed to answer to their names:

Adair	Fornes	Legare	Rodenberg
Akin, N. Y.	Francis	Lindsay	Rucker, Mo.
Ames	George	Linthicum	Sabath
Andrus	Gill	Littleton	Scully
Ansberry	Gillett	Longworth	Sells
Austin	Goeke	Loud	Shackleford
Ayres	Graham	McCall	Simmons
Bartholdt	Greene, Vt.	McCoy	Slemp
Bates	Gregg, Pa.	McCreary	Smith, J. M. C.
Bathrick	Griest	McKellar	Smith, Cal.
Berger	Guernsey	McLaughlin	Speer
Broussard	Hammond	Maher	Stack
Brown	Hardwick	Martin, Colo.	Stanley
Burke, Pa.	Harris	Martin, S. Dak.	Steenerson
Calder	Harrison, N. Y.	Matthews	Stephens, Nebr.
Carter	Hart	Merritt	Stevens, Minn.
Clark, Fla.	Hartman	Moore, Tex.	Sulloway
Conry	Hayes	Needham	Taggart
Copley	Henry, Tex.	Nelson	Taylor, Colo.
Covington	Hill	Oldfield	Thistlewood
Crago	Hinds	Palmer	Townsend
Cravens	Howard	Patten, N. Y.	Tuttle
Dalzell	Hughes, W. Va.	Payne	Underwood
Daugherty	Hull	Peters	Volstead
Davis, Minn.	Humphrey, Wash.	Pray	Vreeland
Dickson, Miss.	James	Prouty	Warburton
Dixon, Ind.	Johnson, Ky.	Pujo	Weeks
Esch	Kitchin	Rainey	Whitacre
Estopinal	Konop	Randell, Tex.	Wilder
Farr	Lafean	Redfield	Wilson, Ill.
Fields	Lamb	Reyburn	Wilson, N. Y.
Finley	Langham	Richardson	Wood, N. J.
Focht	Langley	Riordan	Woods, Iowa
Fordney	Lee, Ga.	Roberts, Mass.	

The committee rose; and Mr. SISSON having assumed the chair as Speaker pro tempore, Mr. SAUNDERS, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee having found itself without a quorum, he had directed the roll to be called, whereupon 250 Members, a quorum, had answered to their names, and he reported the list of absentees.

The SPEAKER pro tempore. The gentleman from Virginia [Mr. SAUNDERS], Chairman of the Committee of the Whole House on the state of the Union, reports that that committee, having found itself without a quorum, he had directed the roll to be called, whereupon 250 Members, a quorum, answered to their names, and he reports the names of the absentees. The Clerk will note the names of the absentees in the RECORD. The committee will resume its sitting.

The committee resumed its sitting, with Mr. SAUNDERS in the chair.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Iowa [Mr. GOOD].

Mr. GOOD. Mr. Chairman, I ask unanimous consent to address the committee for two minutes.

The CHAIRMAN. The gentleman from Iowa [Mr. GOOD] asks unanimous consent to address the committee for two minutes. Is there objection?

There was no objection.

The CHAIRMAN. The gentleman from Iowa is recognized for two minutes.

Mr. GOOD. Mr. Chairman, the amendment which has just been reported applies as properly, or perhaps more properly, to the fortification bill, wherein appropriations are made for the Picatinny Arsenal. I did not know at the time I offered the amendment that there was not a complete understanding by Members on the other side of the House to the effect that this amendment would be accepted by the committee. I was under the impression that there was such an understanding and that it would be accepted, and my impression was that the gentleman from Kentucky [Mr. SHERLEY] had overlooked offering the amendment.

I am more concerned with regard to the adoption of the proposition of the Government manufacturing the larger part of its powder than I am that this particular amendment to this particular bill shall prevail. The provision contained in the fortification bill is the same as I have offered in this amendment with regard to the amount of powder that the Government shall manufacture, and inasmuch as that bill has been unanimously reported to the House and this item has not been thoroughly discussed, I desire to ask unanimous consent to withdraw my amendment.

The CHAIRMAN. The gentleman from Iowa [Mr. GOOD] asks unanimous consent to withdraw his amendment. Is there objection?

There was no objection.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Automatic rifles: For the purchase, manufacture, and test of automatic rifles, including their sights and equipments, to be available until the close of the fiscal year ending June 30, 1915, $150,000.

Mr. HAY. Mr. Chairman, I move to strike out that paragraph.

The amendment was agreed to.

The Clerk read as follows:

Ammunition for field artillery for Organized Militia: For procuring reserve ammunition for field artillery for the Organized Militia of the several States, Territories, and the District of Columbia, $500,000.

Mr. HAY. Mr. Chairman, I offer the following amendment to take the place of the last item just read.

The CHAIRMAN. The gentleman will send the amendment to the desk.

The Clerk read as follows:

Page 44, strike out all of lines 3, 4, 5, and 6, which read as follows: "Ammunition for field artillery for Organized Militia: For procuring reserve ammunition for field artillery for the Organized Militia of the several States, Territories, and the District of Columbia, $500,000," and insert in lieu thereof the following: "Ammunition for field artillery for Organized Militia: For procuring reserve ammunition for field artillery for the Organized Militia of the several States, Territories, and the District of Columbia, $500,000; the funds to be immediately available and to remain available until the end of the fiscal year ending June 30, 1915."

Mr. MANN. I reserve a point of order upon the amendment.

Mr. HAY. I will state to the gentleman that the Acting Chief of Ordnance sent that amendment to me, with the explanation that in order to assemble the various materials for the manufacture of this ammunition it was necessary to have this appropriation available as soon as possible, in order to begin the manufacture at the beginning of the fiscal year.

Mr. MANN. What is the object in having it available until the end of the fiscal year 1915?

Mr. HAY. For the same reason.

Mr. MANN. That is not made in another powder factory, is it?

Mr. HAY. As I understand it, the cases in which this ammunition is included can be manufactured more cheaply outside, but they can not be assembled within the fiscal year. The ammunition is not the same as that for small arms. It is an

ammunition that takes time to manufacture, and in order to assemble the parts of it it is important that contracts should run from one year to another.

Mr. MANN. Is that done as to ammunition in any other case?

Mr. HAY. Not in this bill. I do not know how it is in the fortification bill. This is the only ammunition in this bill for Field Artillery or for any other kind of Artillery. As I understand it, the Ordnance Department finds it necessary to continue the manufacture from year to year and to run from one year to another, and it will be much cheaper and better to do it in that way.

Mr. MANN. What I want to get at, if possible, is whether it is proposed to differentiate this from other appropriations for ammunition.

Mr. HAY. Only this kind of ammunition. As I say, there is no other ammunition appropriated for in this bill for Artillery except this. All the other ammunition carried in this bill is for small arms.

Mr. MANN. I withdraw the point of order, Mr. Chairman.

The CHAIRMAN. The point of order is withdrawn. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. HAY. Mr. Chairman, I offer another amendment.

The CHAIRMAN. The gentleman from Virginia will send the amendment to the desk.

The Clerk read as follows:

Insert as a new paragraph at the end of the bill the following:
"The sum of $13,913.25, a part of the sum of $200,000 appropriated by the act of March 3, 1909, for automatic rifles and set aside by the Ordnance Department for payment of royalties, is hereby made available for the payment of such royalties on automatic rifles completed during the fiscal year 1912: *Provided*, That hereafter appropriations made by the Ordnance Department shall be available for the payment of royalties on royalty contracts made during the availability of such appropriaton."

Mr. MANN. I reserve the point of order.

The CHAIRMAN. The point of order is reserved.

Mr. HAY. I will state to the gentleman that this is an estimate sent down by the Secretary of War to the Secretary of the Treasury to meet a decision of the Comptroller of the Treasury that all royalties must be paid from appropriations available at the time of completion of the article on which the royalty is due. I propose to amend that amendment by striking out the proviso that provides that "hereafter all royalties," and so forth, so that it will only apply to that one particular case.

Mr. MANN. Mr. Chairman, I withdraw the point of order.

Mr. HAY. Mr. Chairman, I move to amend the amendment by striking out the proviso.

The CHAIRMAN. Without objection, that modification will be made.

There was no objection.

The amendment as modified was agreed to.

Mr. HAY. Mr. Chairman, I ask unanimous consent that where in the bill in the various amounts there are two ciphers after the period they may be stricken out, as I understand it causes confusion and some trouble about having the bill enrolled.

Mr. MANN. The gentleman means that where there are two ciphers in the place of cents that they go out of the bill?

Mr. HAY. Yes.

Mr. MANN. I think that is a wise thing to do.

The CHAIRMAN. The gentleman from Virginia asks unanimous consent that the minor correction to which he refers shall be made. Is there objection?

There was no objection.

Mr. MOON of Tennessee. Mr. Chairman, I offer the following, which I send to the Clerk's desk, as an independent section to follow the end of the bill.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Insert as a new section at the end of the bill the following:
"The Secretary of War, in his discretion, may loan or grant the temporary use of tents and other camp equipage belonging to the United States to any organization of the Grand Army of the Republic and to the Confederate Veterans: *Provided*, That no cost or expense shall accrue to the United States on account of said loan or temporary use of said tents, equipage," etc.

Mr. MANN. Reserving a point of order, may I ask the gentleman, Does this have in contemplation the meeting at Gettysburg?

Mr. MOON of Tennessee. It has in contemplation the meeting of the Confederate Veterans and the Grand Army of the Republic and the Army of the Cumberland at Chickamauga primarily, but it is drawn so as to give the use of the tents and equipage at Gettysburg or anywhere else.

Mr. MANN. If the gentleman will confine it to Chickamauga, I have no objection; but my recollection is that we appropriated money last year for the meeting at Gettysburg providing for this same thing. Under the gentleman's amendment that money could not be expended.

Mr. MOON of Tennessee. This does not call for the expenditure of any money.

Mr. MANN. No; but we have appropriated money for the purpose of furnishing these things both to the Union and the Confederate soldiers at the meeting at Gettysburg. The gentleman's amendment provides for the use of these articles without any expense to the Government, and that would forbid the expenditure of money which we have appropriated for that purpose.

Mr. MOON of Tennessee. I did not know about anything of that sort and have no disposition to do anything of that kind. In order to avoid that trouble I will ask to modify my amendment by making it apply only to Chattanooga and Chickamauga Park during the year 1913.

Mr. MANN. That is for the one occasion?

Mr. MOON of Tennessee. Yes.

Mr. KENDALL. Will the gentleman yield?

Mr. MOON of Tennessee. I will.

Mr. KENDALL. Would not the terms of this amendment require both the Grand Army and the Confederate Veterans to apply?

Mr. MOON of Tennessee. I think not; but if the gentleman thinks so the word "and" may be stricken out and the word "or" put in its place.

Mr. MANN. That would not do, for then only one could get it.

Mr. KENDALL. That is not the purpose of the gentleman from Tennessee. He wants to make them available to both the Grand Army and the Confederate Veterans. By using the word "and" it might be interpreted that only one could get it.

Mr. MOON of Tennessee. I do not think so, because it does not say jointly, and I do not think it would be so construed.

The CHAIRMAN. The Clerk will report the amendment changed by the gentleman from Tennessee.

The Clerk read as follows:

The Secretary of War, in his discretion, may loan or grant for temporary use at Chattanooga and at Chickamauga and Chattanooga Park for the year 1913, tents and other equipage belonging to the United States, etc.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Tennessee as modified.

The amendment was agreed to.

Mr. HAY. Mr. Chairman, I move that the committee do now rise and report the bill with amendments to the House, with the recommendation that the amendments be agreed to and that the bill as amended do pass.

The motion was agreed to.

Accordingly the committee determined to rise; and the Speaker having resumed the chair, Mr. SAUNDERS, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill (H. R. 27941) making appropriations for the support of the Army for the fiscal year ending June 30, 1914, and had directed him to report the same back with sundry amendments, with the recommendation that the amendments be agreed to and that the bill as amended do pass.

Mr. HAY. Mr. Speaker, I demand the previous question on the bill and amendments to final passage.

The previous question was ordered.

The SPEAKER. Is there a separate vote demanded on any amendment?

Mr. LEVY. Mr. Speaker, I demand a separate vote on the amendment which was adopted at the end of line 17, page 24, after the figures "$7,634,553," which reads as follows:

Provided, That no part of this or any other appropriation shall be expended in payment for heat and light for quarters of officers who receive commutation of quarters.

The SPEAKER. Is a separate vote demanded on any other amendment? If not, the other amendments will be voted on in gross.

The question is on agreeing to the amendments, except that upon which a separate vote is demanded.

The question was taken, and the amendments were agreed to.

The SPEAKER. The question now is on the amendment which the Clerk has reported and on which the gentleman from New York demands a separate vote.

The question was taken; and on a division (demanded by Mr. LEVY) there were—ayes 49, nays 63.

Mr. WEBB. Mr. Speaker, I demand the yeas and nays.

Mr. RODDENBERY. Mr. Speaker, I make the point of order that there is no quorum present.

The SPEAKER. The gentleman from Georgia makes the point of order that there is no quorum present. Evidently there is no quorum present. The Doorkeeper will close the

doors, the Sergeant at Arms will notify absentees, and the Clerk will call the roll. The question is on the amendment, on which the gentleman from New York demands the separate vote.

The question was taken; and there were—yeas 84, nays 142, answered "present" 10, not voting 147, as follows:

YEAS—84.

Aiken, S. C.	Dickson, Miss.	Kendall	Rubey
Anderson	Dies	Konop	Saunders
Barnhart	Difenderfer	Kopp	Scott
Beall, Tex.	Doughton	Lever	Sheppard
Boehne	Faison	Lindbergh	Sherwood
Booher	Floyd, Ark.	Lloyd	Sims
Buchanan	Foster	McLaughlin	Sisson
Burke, S. Dak.	Garner	Macon	Stedman
Burke, Wis.	Garrett	Maguire, Nebr.	Stephens, Miss.
Byrnes, S. C.	Good	Martin, S. Dak.	Stephens, Tex.
Byrns, Tenn.	Goodwin, Ark.	Mays	Stone
Callaway	Gray	Mondell	Thomas
Candler	Green, Iowa	Morse, Wis.	Tribble
Claypool	Gregg, Tex.	Moss, Ind.	Vare
Cline	Gudger	Murdock	Volstead
Cox	Hardy	Neeley	Warburton
Danforth	Helm	Norris	Webb
Daugherty	Hensley	Nye	Wilson, Pa.
Davenport	Jackson	Page	Witherspoon.
Denver	Jacoway	Ranch	Young, Kans.
Dickinson	Jones	Roddenbery	Young, Tex.

NAYS—142.

Adamson	Driscoll, M. E.	Howell	Powers
Ainey	Dupré	Hughes, Ga.	Pray
Alexander	Dyer	Humphrey, Wash.	Prince
Allen	Edwards	Humphreys, Miss.	Raker
Ayres	Esch	Kindred	Ransdell, La.
Barchfeld	Estopinal	Kinkaid, Nebr.	Rees
Bartlett	Evans	Kinkead, N. J.	Reilly
Bell, Ga.	Fairchild	Knowland	Roberts, Nev.
Blackmon	Fergusson	Konig	Rothermel
Borland	Ferris	Korbly	Rouse
Bradley	Fitzgerald	Lafferty	Rucker, Colo.
Brown	Flood, Va.	La Follette	Russell
Bulkley	Foss	Lawrence	Sharp
Burgess	Fowler	Lee, Pa.	Sherley
Burleson	French	Lenroot	Simmons
Butler	Fuller	Levy	Sloan
Campbell	Gallagher	Lobeck	Small
Cannon	Gardner, N. J.	Loud	Smith, Saml. W.
Cantrill	Gill	McDermott	Sparkman
Carlin	Godwin, N. C.	McGillicuddy	Stanley
Cary	Greene, Mass.	McKenzie	Steenerson
Cooper	Greene, Vt.	McKinney	Stephens, Cal.
Crumpacker	Guernsey	Madden	Sterling
Curley	Hamill	Miller	Stevens, Minn.
Currier	Hamilton, Mich.	Moon, Tenn.	Taggart
Curry	Hamlin	Moore, Pa.	Talcott, N. Y.
Davidson	Hartman	Morgan, La.	Taylor, Ala.
Davis, Minn.	Hay	Morgan, Okla.	Taylor, Ohio
Davis, W. Va.	Hayden	Morrison	Thistlewood
De Forest	Helgesen	Mott	Tilson
Dent	Henry, Conn.	Olmsted	Towner
Dodds	Henry, Tex.	O'Shaunessy	Watkins
Donohoe	Higgins	Padgett	Willis
Doremus	Hinds	Patton, Pa.	Young, Mich.
Draper	Holland	Porter	
Driscoll, D. A.	Howard	Post	

ANSWERED "PRESENT"—10.

Browning	McCall	Mann	Talbott, Md.
Dwight	McGuire, Okla.	Murray	
Langley	McMorran	Parran	

NOT VOTING—147.

Adair	Gardner, Mass.	Langham	Riordan
Akin, N. Y.	George	Lee, Ga.	Roberts, Mass.
Ames	Gillett	Legare	Rodenberg
Andrus	Glass	Lewis	Rucker, Mo.
Ansberry	Goeke	Lindsay	Sabath
Anthony	Goldfogle	Linthicum	Scully
Ashbrook	Gould	Littlepage	Sells
Austin	Graham	Littleton	Shackleford
Bartholdt	Gregg, Pa.	Longworth	Slayden
Bates	Griest	McCoy	Slemp
Bathrick	Hamilton, W. Va.	McCreary	Smith, J. M. C.
Berger	Hammond	McKellar	Smith, Cal.
Brantley	Hardwick	McKinley	Smith, N. Y.
Broussard	Harris	Maher	Smith, Tex.
Burke, Pa.	Harrison, Miss.	Martin, Colo.	Speer
Burnett	Harrison, N. Y.	Matthews	Stack
Calder	Hart	Merritt	Stephens, Nebr.
Carter	Haugen	Moon, Pa.	Sulloway
Clark, Fla.	Hawley	Moore, Tex.	Sweet
Clayton	Hayes	Needham	Switzer
Collier	Heald	Nelson	Taylor, Colo.
Conry	Heflin	Oldfield	Thayer
Copley	Hill	Palmer	Townsend
Covington	Hobson	Patten, N. Y.	Turnbull
Crago	Houston	Payne	Tuttle
Cravens	Howland	Pepper	Underhill
Cullop	Hughes, W. Va.	Peters	Underwood
Dalzell	Hull	Pickett	Vreeland
Dixon, Ind.	James	Plumley	Weeks
Ellerbe	Johnson, Ky.	Pou	Whitacre
Farr	Johnson, S. C.	Prouty	White
Fields	Kahn	Pujo	Wilder
Finley	Kennedy	Rainey	Wilson, Ill.
Focht	Kent	Randell, Tex.	Wilson, N. Y.
Fordney	Kitchin	Redfield	Wood, N. J.
Fornes	Lafean	Reyburn	Woods, Iowa
Francis	Lamb	Richardson	

So the amendment was rejected.

The Clerk announced the following pairs:

Ending February 1:

Mr. SHACKLEFORD with Mr. LONGWORTH.

Until further notice:

Mr. MURRAY with Mr. HARRIS.
Mr. RAINEY with Mr. MCCALL.
Mr. HARRISON of New York with Mr. PAYNE.
Mr. KITCHIN with Mr. FORDNEY.
Mr. HOBSON with Mr. AUSTIN.
Mr. FORNES with Mr. WILDER.
Mr. PUJO with Mr. MCMORRAN.
Mr. CONRY with Mr. LANGHAM.
Mr. UNDERWOOD with Mr. MANN.
Mr. SCULLY with Mr. BROWNING.
Mr. CARTER with Mr. MCGUIRE of Oklahoma.
Mr. FIELDS with Mr. LANGLEY.
Mr. HULL with Mr. NEEDHAM.
Mr. ADAIR with Mr. BARTHOLDT.
Mr. ANSBERRY with Mr. BATES.
Mr. ASHBROOK with Mr. BURKE of Pennsylvania.
Mr. BATHRICK with Mr. AMES.
Mr. BURNETT with Mr. CALDER.
Mr. BROUSSARD with Mr. COPLEY.
Mr. CLARK of Florida with Mr. CRAGO.
Mr. CLAYTON with Mr. FOCHT.
Mr. COLLIER with Mr. WOODS of Iowa.
Mr. COVINGTON with Mr. FARR.
Mr. CULLOP with Mr. GILLETT.
Mr. DIXON of Indiana with Mr. DALZELL.
Mr. FINLEY with Mr. SULLOWAY.
Mr. GEORGE with Mr. SMITH of California.
Mr. GLASS with Mr. SLEMP.
Mr. GOLDFOGLE with Mr. GRIEST.
Mr. GRAHAM with Mr. HAUGEN.
Mr. HAMMOND with Mr. HAWLEY.
Mr. HARDWICK with Mr. MCCREARY.
Mr. HARRISON of Mississippi with Mr. MCKINLEY.
Mr. HEFLIN with Mr. MATTHEWS.
Mr. HOUSTON with Mr. MERRITT.
Mr. JAMES with Mr. MOON of Pennsylvania.
Mr. JOHNSON of Kentucky with Mr. NELSON.
Mr. LEE of Georgia with Mr. PICKETT.
Mr. LEWIS with Mr. PLUMLEY.
Mr. LINTHICUM with Mr. PROUTY.
Mr. MCCOY with Mr. ROBERTS of Massachusetts.
Mr. OLDFIELD with Mr. REYBURN.
Mr. PATTEN of New York with Mr. RODENBERG.
Mr. PEPPER with Mr. SPEER.
Mr. PETERS with Mr. SWITZER.
Mr. POU with Mr. VREELAND.
Mr. SABATH with Mr. WILSON of Illinois.
Mr. RUCKER of Missouri with Mr. WEEKS.
Mr. SLAYDEN with Mr. WOOD of New Jersey.
Mr. SMITH of New York with Mr. HAYES.
Mr. SMITH of Texas with Mr. HEALD.
Mr. STEPHENS of Nebraska with Mr. HUGHES of West Virginia.
Mr. TAYLOR of Colorado with Mr. KAHN.
Mr. TOWNSEND with Mr. KENNEDY.
Mr. TUTTLE with Mr. LAFEAN.
Mr. UNDERHILL with Mr. SELLS.
Mr. BRANTLEY with Mr. ANTHONY.
Mr. WHITE with Mr. J. M. C. SMITH.

For the session:

Mr. PALMER with Mr. HILL.
Mr. LITTLETON with Mr. DWIGHT.
Mr. RIORDAN with Mr. ANDRUS.
Mr. TALBOTT of Maryland with Mr. PARRAN.

Mr. MCCALL. Mr. Speaker, I voted "no," but I am paired with Mr. RAINEY, so I would like to change my vote and answer "present."

The SPEAKER. Call the gentleman's name.

The name of Mr. MCCALL was called and he answered "Present."

Mr. MURRAY. Mr. Speaker, is Mr. HARRIS, of Massachusetts, recorded?

The SPEAKER. He is not recorded.

Mr. MURRAY. I desire to change my vote and answer "present."

The SPEAKER. How did the gentleman vote?

Mr. MURRAY. I voted "no."

The SPEAKER. Call the gentleman's name.

The name of Mr. MURRAY was called, and he answered "Present."

The result of the vote was announced as above recorded.

The SPEAKER. A quorum is present, the Doorkeeper will open the doors, and the question is on the engrossment and third reading of the amended bill.

The bill as amended was ordered to be engrossed and read a third time, was read the third time, and passed.

On motion of Mr. HAY, a motion to reconsider the vote by which the bill was passed was laid on the table.

LEAVE OF ABSENCE.

By unanimous consent, Mr. FERGUSSON was granted leave of absence for two days, on account of important business.

REPORT OF THE PHILIPPINE COMMISSION, 1912 (H. DOC. NO. 1293).

The SPEAKER laid before the House the following message from the President of the United States, which was read and, with the accompanying papers, ordered printed, and referred to the Committee on Insular Affairs.

The Clerk read as follows:

To the Senate and House of Representatives:

I transmit herewith, for the information of the Congress, the Thirteenth Annual Report of the Philippine Commission for the fiscal year ended June 30, 1912, together with the reports of the governor general and the secretaries of the four executive departments of the Philippine Government for the same period.

WM. H. TAFT.

THE WHITE HOUSE, *January 21, 1913.*

LEGISLATIVE, EXECUTIVE, AND JUDICIAL APPROPRIATION BILL.

Mr. JOHNSON of South Carolina. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill H. R. 26680, for the purpose of disagreeing to the Senate amendments and asking for a conference.

The SPEAKER. The Chair lays before the House the bill H. R. 26680. The Clerk will report it by title.

The Clerk read as follows:

A bill (H. R. 26680) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1914, and for other purposes.

The SPEAKER. The gentleman from South Carolina moves to disagree to all the Senate amendments and asks for a conference.

Mr. MANN. Mr. Speaker, I desire to have a separate vote on amendments Nos. 31 and 68.

The SPEAKER. The gentleman from Illinois asks for a separate vote on amendment No. 31 and amendment No. 68. The Clerk will report amendment No. 31.

Mr. BARTLETT. Mr. Speaker, will the gentleman yield for a moment?

The Clerk read as follows:

Amendment 31. Page 15, line 4, strike out "$2,500" and insert "$3,000."

The SPEAKER. For what purpose does the gentleman from Illinois [Mr. FOSTER] rise?

Mr. FOSTER. I want to ask the gentleman from Illinois if he did not want to include the three items—31, 32, and 33?

Mr. MANN. Well, I think if the House would express its opinion on one, that would be a guide to the conferees.

The SPEAKER. The Clerk will report the amendment again, there was so much uproar in the House.

The amendment was again reported.

Mr. BARTLETT. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. BARTLETT. Mr. Speaker, is this a proposition for unanimous consent? Is this a proceeding by unanimous consent, or how is it?

The SPEAKER. Ordinarily this would have to go to the committee, but the gentleman from South Carolina asked unanimous consent to consider it in the House.

Mr. BARTLETT. Is it to disagree to all the amendments?

The SPEAKER. The gentleman asked to disagree to all the amendments, but the gentleman from Illinois [Mr. MANN] asked for a separate vote on two.

Mr. BARTLETT. That is done by unanimous consent, too?

The SPEAKER. The whole thing is done by unanimous consent. Is there objection?

Mr. MARTIN of South Dakota. A parliamentary inquiry, Mr. Speaker.

The SPEAKER. The gentleman will state it.

Mr. MARTIN of South Dakota. Was the request of the gentleman from South Carolina for unanimous consent put to the House?

The SPEAKER. It never was.

Mr. RODDENBERY. Mr. Speaker, I reserve the right to object for the purpose of making an inquiry. Is the amendment just reported the amendment where, in conference, an increase of salary has been allowed to certain employees on the House side that was not considered in the House?

Mr. MANN. The amendment on which I asked for a separate vote was one of the amendments inserted by the Senate for employees. I asked for a separate vote on one of these amendments, for an additional employee to the Committee on the Judiciary, as a guide to the conferees, thinking that one vote would be sufficient.

The SPEAKER. Is there objection to considering this motion in the House as in the Committee of the Whole?

Mr. RODDENBERY. Mr. Speaker, if I can proceed somewhat further I can announce whether I object or do not object. I would like to inquire as to the items in order that the Members may understand what is involved in expressing themselves for or against the request of the gentleman from Illinois [Mr. MANN], who makes it. I would like to know if that is on an amendment on this bill put in by the Senate, increasing the salary of a certain clerk to one of the committees of the House, namely, the Judiciary Committee?

Mr. MANN. That is correct.

Mr. RODDENBERY. And the gentleman is now desiring to get an expression of the House before it goes to conference on that amendment?

Mr. MANN. That is correct.

Mr. RODDENBERY. The House never having expressed itself upon that point?

Mr. MANN. That is right.

Mr. GARNER. A parliamentary inquiry, Mr. Speaker.

The SPEAKER. The gentleman will state it.

Mr. GARNER. If unanimous consent is given as requested by the gentleman from South Carolina [Mr. JOHNSON], will it be subject to discussion on this separate vote suggested by the gentleman from Illinois [Mr. MANN]?

Mr. MANN. It will, unless the House orders the previous question.

Mr. RODDENBERY. Mr. Speaker, that is the difficulty. I have no disposition to interfere with an expression of the House, but to call up an amendment coming from the Senate and have the House express itself on it when it has never been considered or discussed in the House, it seems to me a rather dangerous procedure.

Mr. MANN. If the gentleman from Georgia [Mr. RODDENBERY] will permit. We are about having a separate vote on that now. If it goes to conference without it the House may never have an opportunity to express its opinion on it. That is the reason I ask a separate vote.

Mr. RODDENBERY. I will ask the gentleman if no objection is filed and if the gentleman from South Carolina [Mr. JOHNSON] or another gentleman moves the previous question, where we will stand?

Mr. MANN. If the House orders the previous question, of course it would be decided without debate, but I take it that that course will not be pursued.

Mr. FOWLER. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. FOWLER. If there should be an objection to the consideration of the motion by the gentleman from South Carolina, would this bill not be subject to a point of order, and be required to be sent to the Committee of the Whole House on the state of the Union?

The SPEAKER. It would go to the Committee on Appropriations.

Mr. FITZGERALD. I think the gentleman misunderstands. This amendment would not be subject to a point of order in the present condition if in the Committee of the Whole House on the state of the Union. The only thing that can be done is to vote on the amendments that they be considered in the House or in the committee. This is the more expeditious way of ascertaining the sentiment of the House in regard to these matters.

The SPEAKER. The Chair will state to the gentleman from Illinois [Mr. FOWLER] that if the motion of the gentleman from South Carolina [Mr. JOHNSON] prevails, this will be open for debate and discussion, the same as any other proposition, unless some gentleman moves the previous question.

Mr. FOWLER. If unanimous consent should not be granted then, under Rule XX, would not this bill be referred to the committee and reported back with these amendments to be considered in the Committee of the Whole House on the state of the Union?

The SPEAKER. If objection is made to the request of the gentleman from South Carolina for unanimous consent to consider this in the Committee of the Whole House on the state of the Union, then it goes, in the first instance, to the Committee on Appropriations, and then, when it gets back to the House,

inasmuch as it involves the appropriation of money, it would have to be considered in the Committee of the Whole House on the state of the Union unless somebody gets permission to consider it in the House as in the Committee of the Whole.

Mr. FOWLER. Mr. Speaker, I do not desire to object, but I give notice that when the Senate adopts something like 200 or 300 amendments hereafter I shall object, unless there is an opportunity given for a consideration of those amendments.

The SPEAKER. Is there objection?

Mr. SISSON. Mr. Speaker, I do not know just exactly how this matter got in, or why the Senate should assume authority over House employees. This matter ought to have been considered in the Committee on Appropriations originally. Now, I would like to know from the chairman of the committee who has this bill in charge how much it would delay the passage of this bill to let it go back to the Committee on Appropriations?

Mr. JOHNSON of South Carolina. I can not answer that question, Mr. Speaker. I think this House is fairly full now, and it can vote on this proposition now as well as it can after bringing the bill back from the Committee on Appropriations.

Mr. SISSON. And the gentleman's proposition is to disagree to all the Senate amendments except this one?

Mr. JOHNSON of South Carolina. I asked to disagree to all the Senate amendments. The gentleman from Illinois [Mr. MANN] wants a separate vote on this particular amendment as an instruction to the House conferees not to agree to it, whatever else they may do.

Mr. SISSON. I have no objection to that course.

The SPEAKER. Is there objection. [After a pause.] The Chair hears none.

Mr. FOWLER. Mr. Speaker, I object to the consideration of the bill, and ask that it be referred to the Committee on Appropriations.

Mr. FITZGERALD. Mr. Speaker, will the gentleman withhold his objection? It may be that the gentleman believes that after the bill is reported from the Committee on Appropriations and these items are taken up in the Committee of the Whole House on the state of the Union these increases are subject to a point of order.

Mr. RODDENBERY. Mr. Speaker, I object.

The SPEAKER. The gentleman from Georgia [Mr. RODDENBERY] has settled this controversy by objecting.

Mr. RODDENBERY. Having found out the attitude of the gentleman from New York [Mr. FITZGERALD] on this particular question, Mr. Speaker, I object.

Mr. FITZGERALD. Mr. Speaker, I think the gentleman misunderstands what I am saying.

Mr. RODDENBERY. I do not fully understand what the gentleman has been saying, except that I understand that the gentleman wants the motion submitted, and because this had been put on in the Senate without reference to the House I object.

Mr. FITZGERALD. If the gentleman will withhold his objection until I make a statement, I shall be glad.

The SPEAKER. Does the gentleman withhold his objection?

Mr. RODDENBERY. Yes; I withhold the objection.

Mr. EDWARDS. Mr. Speaker, I object.

The SPEAKER. The gentleman from Georgia [Mr. EDWARDS] objects, and the bill is referred to the Committee on Appropriations.

RIVER AND HARBOR BILL.

Mr. SPARKMAN rose.

The SPEAKER The gentleman from Florida [Mr. SPARKMAN] is recognized.

Mr. SPARKMAN. Mr. Speaker, I move that the House resolve itself into Committee of the Whole House on the state of the Union for the consideration of the bill (H. R. 28180) making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes; and, pending that, I ask unanimous consent that general debate be limited to an hour and a half, one half to be controlled by myself and the other half by the gentleman from Massachusetts [Mr. LAWRENCE].

The SPEAKER. The gentleman from Florida [Mr. SPARKMAN] moves that the House resolve itself into Committee of the Whole House on the state of the Union for the consideration of the bill H. R. 28180, the river and harbor bill; and, pending that, he asks unanimous consent that general debate be limited to an hour and a half. Is there objection? [After a pause.] The Chair hears none. The question is on agreeing to the motion of the gentleman from Florida.

The motion was agreed to.

Accordingly the House resolved itself into Committee of the Whole House on the state of the Union for the consideration of the bill H. R. 28180, the river and harbor bill, with Mr. MOON of Tennessee in the chair.

The CHAIRMAN. The House is in Committee of the Whole House on the state of the Union for the consideration of the river and harbor bill, of which the Clerk will report the title.

The Clerk read as follows:

A bill (H. R. 28180) making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes.

Mr. SPARKMAN. Mr. Chairman, I ask that the first reading of the bill be dispensed with.

The CHAIRMAN. The gentleman from Florida [Mr. SPARKMAN] asks unanimous consent that the first reading of the bill be dispensed with. Is there objection?

There was no objection.

[Mr. SPARKMAN addressed the committee. See Appendix.]

Mr. SPARKMAN. Now, Mr. Chairman, I should like to ask if I have any time left; and if so, how much?

The CHAIRMAN. The gentleman has eight minutes left.

Mr. SPARKMAN. Mr. Chairman, I yield those eight minutes to the gentleman from Ohio [Mr. SHARP].

Mr. SHARP. Mr. Chairman, may I ask the gentleman who is at the head of the minority how much of his time I may have? If I should have only eight minutes or a shorter time now, I would rather defer my remarks until later on.

Mr. LAWRENCE. I will state to the gentleman that I do not propose to occupy any time myself in general debate, but I am going to yield just a moment to the gentleman from California [Mr. KNOWLAND], and then I had planned to yield all the balance of my time to the gentleman from Ohio [Mr. SHARP], which would give the gentleman from Ohio practically three-quarters of an hour out of my time.

Mr. SHARP. If the gentleman from California wishes to follow at this time, I will yield to him.

Mr. LAWRENCE. Then, Mr. Chairman, I will now yield to the gentleman from California [Mr. KNOWLAND] five minutes.

The CHAIRMAN. The gentleman from California [Mr. KNOWLAND] is recognized for five minutes.

Mr. KNOWLAND. Mr. Chairman, I rise simply to ask unanimous consent to place in the RECORD articles by two British authorities, dealing with the controverted sections of the Panama Canal bill; articles taken from the Law Magazine and Review, a quarterly review on jurisprudence, published in London.

The CHAIRMAN. The gentleman from California [Mr. KNOWLAND] asks unanimous consent to place in the RECORD certain articles named by him. Is there objection to his request?

There was no objection.

[The articles referred to are printed in the Appendix.]

Mr. KNOWLAND. Mr. Chairman, I yield back the balance of my time to the gentleman from Massachusetts [Mr. LAWRENCE].

Mr. SHARP. Mr. Chairman, I yield one minute to the gentleman from Missouri [Mr. BOOHER].

The CHAIRMAN. The gentleman from Missouri [Mr. BOOHER] is recognized for one minute.

Mr. BOOHER. Mr. Chairman, I want to ask permission to print in the RECORD an article written by Hon. BENJAMIN G. HUMPHREYS, my colleague from Mississippi, entitled "A glance at the richest valley in the world," published in the National Waterways Magazine.

The CHAIRMAN. The gentleman from Missouri [Mr. BOOHER] asks unanimous consent to print in the RECORD the article named by him. Is there objection?

There was no objection.

Following is the article referred to:

A GLANCE AT THE RICHEST VALLEY IN THE WORLD.

[By BENJAMIN G. HUMPHREYS, M. C.]

[Overflowing abundance and overwhelming disaster, prosperity and poverty, life and death, tragedy and humor are strangely mingled in this brief article. The problem is both local and national, and it is one for which a solution must be found, if it be not already known. Congressman HUMPHREYS presents a limited panorama of the Mississippi Valley. He is an entertaining writer and a speaker of great force. What he says is well worth attention. He has represented the third Mississippi district since 1903.—Editor.]

Rollins, the great historian, says that it is glory enough for Philip of Macedon that he be known in history as the "father of Alexander the Great." In like spirit, may not the Mississippi River claim recognition among the rivers of the earth when it can point to the Ohio and Missouri as its tributaries?

Consider one of these—the Ohio, for instance. There are only a few rivers on this earth which actually float a tonnage as

large as the Ohio River, and fewer still which serve the commercial needs of so rich and prosperous a valley.

The commission appointed a few years ago to investigate the reservoirs on the tributaries above Pittsburgh, known as the Pittsburgh Flood Commission, stated rather casually in their report that the flood of 1907 destroyed property in the Ohio River Valley alone which they estimated at $100,000,000. Think of a single valley, a valley on one of our tributary streams, where one flood destroys $100,000,000 in property values, with really no serious or permanent interference with the industrial development or the commercial activities of the people.

When the Iron Chancellor demanded as the price of peace at the end of the Franco-Prussian War that France should pay a war indemnity of a billion dollars all the world stood aghast at what was believed to be the deathblow to that great nation. To-day a spring flood on the Ohio River lays one-tenth that sum as tribute upon the people of this single valley, and not a wheel stops turning nor a furnace fire dies. There were only a limited number of our people outside that valley who knew at the time what this flood was up to, and they forgot about it as soon as the headline artist turned his attention to another theme.

We are spending, or about to spend, some $60,000,000 to secure a 9-foot depth all the way from Pittsburgh to Cairo in order that the millions of tons of raw material and manufactures originating in this valley may find reasonable transportation facilities to the markets. The tonnage which originates on the Ohio River is so great that an exact statement of its total is sure to challenge belief. The tonnage created in the Pittsburgh district alone exceeds the sum originating at any other three places in the world combined.

It will require $60,000,000 to complete the improvement of the Ohio River from Pittsburgh to Cairo, a distance of a thousand miles. The Manchester Ship Canal in England, which cost $75,000,000, is only 35 miles long, and its annual commerce is less than 3,000,000 tons. The Clyde was only 15 inches deep, but at the cost of $70,000,000 it was deepened so as to admit ships from the sea, and Glasgow became the second port of Europe.

Pittsburgh alone originates more tonnage than Manchester and Glasgow combined, and the improvement of the Ohio River will help not only Pittsburgh, but will give a thousand miles of navigation through one of the world's busiest valleys. Last year the tonnage of the Ohio River was about 11,000,000, about five times greater than the tonnage of the Manchester Canal.

A few years ago I saw one boat come out of the Ohio, when the rains had given sufficient depth for temporary navigation, towing 58,000 tons of coal. It would have required 50 locomotives, pulling 1,900 cars, to have hauled that load.

No wonder the people of that valley are impatient for the great work of improving this river to be pushed with all possible speed to completion.

MR. HILL AND HIS CLOCK.

Mr. J. J. Hill, the great railroad magnate, and withal a most interesting and farseeing statesman, declared some years ago that the "clock had struck" for the upper Mississippi, by which term we designate that reach of the river above the mouth of the Missouri. Congress refused to accept this diagnosis—or maybe I should say prognosis. At any rate we had not heard the clock strike, and as so many interests were to be affected thereby we demanded strict proof.

To take issue with Mr. Hill on the efficiency of any transportation facility requires some assurance, and so Congress set about to investigate the question critically before adopting the more ambitious project then pending for the improvement of the river. Fortunately the proof seemed to be ample and convincing, and the upper Mississippi is now under improvement for a 6-foot channel.

How was Congress led to this conclusion? Was it proof of politics? Was it to build up commerce or build up fences? Permit me to say this by way of preamble, or prelude, or prologue, as you prefer:

I have served on the Committee on Rivers and Harbors for 10 years, under Republican and Democratic rule, and I have never seen that committee include any river or harbor project in their bill as a matter of political favoritism or expediency or as the result of legislative logrolling. Every project must be approved and recommended by the Board of Engineers of the United States Army before the committee will pass it. The committee must be satisfied that the project is worth the outlay. There is but one way to persuade their will in such matters, and that is to convince their judgment. And now, having tossed this bouquet to my colleagues of this really great committee, let me proceed.

Some years ago I heard the distinguished gentleman from Minnesota, ex-Gov. Lind, on the floor of the House, ask his colleague, Mr. DAVIS, "Where will your farmer neighbors and mine land when 'Pillsbury's Best' has ceased to stand for what it now stands for?" And it was agreed that whatever might seriously impair the world market for "Pillsbury's Best" would work disaster to the wheat farmers of Minnesota. All of which is preliminary to the suggestion that this Pillsbury must evidently be a man of some consequence, as we all, in fact, know him to have been. In testifying before the special committee which was considering the Mississippi River Mr. Pillsbury said this—and a good many others said the same thing and many other things in addition, but for a "short story" this must suffice:

"We consider the presence of the Mississippi River and the fact that it is kept in a navigable condition the great regulator of railroad rates; that the benefits should not be measured by the tonnage as much as by the possibilities of sending the freight by water.

"The amount of flour shipped out of Minneapolis is something enormous—13,000,000 barrels. A great deal of this would go by the Mississippi River unless the railroads maintained the cheapest rate known in the country almost.

"Mr. NELSON. And the Mississippi being there keeps the rates down?

"Mr. PILLSBURY. The fact of the Mississippi being there prevents them from making any combination to maintain excessive rates. The necessity is not so much the amount carried by the steamers as the amount that can be carried."

Railroad rates from the Atlantic seaboard to the Dakotas and the extreme Northwest are made on combinations through St. Paul; that is, the rate to St. Paul plus the rate thence west. The rate to and from St. Paul, however, is materially lowered by reason of the competition by water routes from Duluth through the Lakes. And so it is that the Lakes from Duluth east to the ocean and the river from St. Paul south to the Gulf regulate railroad rates to cities and shippers many hundred miles from either.

HOW THE DEVIL SHOWED MISSOURI.

No river in the world has such a tributary as the Missouri. Winding for 2,400 miles through the greatest granary in the world, draining some dozen States where corn and wheat, hog and hominy enough are produced to fatten the rest of us, it is in many respects the most useful and neglected river of the continent. Sargent Prentiss, the great Whig orator, once declared in a burst of partisanship that when the Almighty created the Mississippi River and the Democratic Party He devoted them both to the service of the devil, and he admitted, facetiously, "that both had kept the faith."

However some of us may resent this thrust at the Democratic Party, the truth is that the Missouri River, which is in fact the Mississippi, has been permitted to so disport itself as to justify no complaint from the Prince of Darkness. It has literally wandered about over the face of the earth like the scriptural lion, seeking whom it might devour.

If you look at the map you will see how the Mississippi has brought down acres and acres of soil, which by successive deposits has gradually encroached upon the sea until many miles of now beautiful farms are stretched along its lower reaches. Engineers tell us that the amount of sediment borne by the Mississippi at its mouth is exactly equal to the amount carried by the Missouri at its mouth, and this is just another way of saying that all the rich plantations along the river below New Orleans and all those vast swamps of cypress and jungle were caved into the Missouri River in the years gone by and transported to the sea.

What this toll has cost the farmers of Iowa and Nebraska and their neighbors can not be measured, but it has been tremendous. Mr. S. Waters Fox, a civil engineer, who for 25 years was employed by the Government on the Missouri River work, places it at 10,490 acres annually in the 807 miles from its mouth to Sioux City.

Still it is argued that this isn't any of Uncle Sam's business at last. But it is. Listen to this: There is but one way to improve the Missouri for navigation—only one way. All of the engineers are agreed on that. Revet the banks, and so prevent further caving. What will this cost? Twenty millions from the mouth to Kansas City. Is the game worth the candle?

HOW MUCH IS $15,000,000,000?

This is a great valley, this Mississippi Valley. There is nothing like it upon the earth. It equals in area the combined areas of Austria, Germany, Holland, France, Italy, Portugal, Spain, Norway, and Great Britain. The annual value of its manufactures had in 1910 reached the enormous total of seven and a half billion dollars.

Too much to comprehend. We can not take in just what that means. Let us speak in different terms. What is seven and a

half billion dollars? It would equal the total appropriations for the War and Navy Departments from 1861 to 1865 plus the appropriations for these departments in 1898 and 1899, the period of the Spanish War, plus the appropriations which have been made for all the rivers and all the harbors from the beginning of the Government to date, plus the cost of the Panama Canal, and even then we would have a balance remaining large enough to pay off the national debt. This is what seven and a half billion dollars amounts to.

But in addition to this, this valley produces 85 per cent of the corn raised in the United States, 75 per cent of the wheat, 70 per cent of the live stock, 70 per cent of the cotton, 70 per cent of the iron ore, 70 per cent of the petroleum, 50 per cent of the copper, 50 per cent of the lumber, 50 per cent of the coal, and has 70 per cent of the farm areas and farm values of this country. The total value of all the products of this valley is $15,000,000,000 annually.

Every pound of this $15,000,000,000 worth of products is affected by the transportation facilities at hand. There are 150,000 miles of railroads in this valley which are trying to transport these products and bring into the valley whatever is needed from the rest of the world in exchange. Can they do it? No; they can not; but suppose they could, suppose they do.

Mr. H. G. Wilson, for many years an official in the freight traffic department of the Kansas City, Fort Scott & Memphis Railroad, is recognized as one of our most efficient authorities on the subject of transportation rates. In an address before the Rivers and Harbors Committee of Congress two years ago he stated that railroad rates from the territory known as "seaboard territory" (lying east of Pittsburgh and Buffalo) to points as far west as Galena, Kans., and Denver, Colo., were all affected by the water transportation of the Mississippi River, and that 5,000,000 tons of traffic across Missouri points into the Southwest were materially lowered by the potential competition furnished by the physical presence of the Missouri River.

After a good deal of cross-questioning on all related subjects, the late Senator Frye, then chairman of the Commerce Committee, brought Mr. Wilson directly to the point:

"The CHAIRMAN. Well, now, what about the Missouri River? How is that going to help you out? What do you want done about that?

"Mr. WILSON. As far as the commercial situation is concerned, a transportation line operated on the Missouri River, a waterway carrier being effective, having sufficient capacity to carry—and, in fact, carrying—a sufficient quantity of tonnage to make that tonnage noticeable to the rail carriers, will exert an influence on the rail lines, forcing them to meet the competition so established, which will result in a lowering of the freight rates, not only to and from Kansas City and the other southwestern Missouri River points but to and from all of the trade territories in the Southwest—Kansas, Oklahoma, Texas, Denver (Colo.), New Mexico, Arizona, and Nebraska. All of this territory, all of these States, will be benefited by a reduction in the freight rates."

I believe he answered the question.

THE FATHER OF WATERS AND THE PASSOVER.

From Cairo south the Mississippi traverses the most fertile valley in the world. I use the word "traverses" advisedly. Mr. Webster says traverse means "to cross, to pass over," and that is what this big river does. Last spring it "passed over" some 14,000 square miles of the most productive lands in the world. At one time during this passover the Secretary of War was furnishing food and shelter to 161,000 of our citizens who had been made homeless and helpless by the flood. How many millions of property values were lost and destroyed nobody knows, and nobody ever will know.

But the loss can not be measured that way. There were many lives lost, many homes destroyed, many hopes turned to despair. If it were not for its marvelously productive soil, which renders its recuperative powers therefore beyond compare, this valley would be abandoned to the wilderness and its denizens. But it is blessed with a gentle climate; the rains fall in season and the sunshine warms into fruitage its abundant crops of corn and cane and whitens its fields of cotton into waving beauty.

There are 26,000 square miles of these lowlands, which, expressed in different terms, means an area larger than Maryland, Delaware, Connecticut, Rhode Island, and Massachusetts combined. All of the lower Mississippi is not lowland, subject to overflow, not by any means. There are broad acres of upland and towns and cities, too, high above such danger. Memphis, Vicksburg, Natchez, Baton Rouge are far beyond the reach of the floods; but in this I speak only of the lowlands.

It would be a foolish thing to provide 9 feet in the Ohio and 6 feet in the upper Mississippi and 12 feet in the Missouri unless we are to secure and maintain a navigable depth in the Mississippi below their confluence. The present adopted project is for 9 feet over the bars, but there are many who are insisting upon "14 feet through the valley." There is but one way to get either. Secure the banks against erosion and confine the waters at all seasons to the channel.

When Gen. Suter, now retired, was a lieutenant colonel in the Engineer Corps of the Army he was set to work on this great problem, and after long and diligent study and experiment he reported as far back as 1890 that the river could not be improved without levees. I quote the record:

"Senator GIBSON. You stated a moment ago, in reply to a question by the chairman, that if you were improving the Mississippi River, even if it were running through a wilderness, if the country through which it ran were not peopled, you would still build levees on the banks?

"Lieut. Col. SUTER. Yes, sir.

"Senator GIBSON. Why do you hold that opinion?

"Lieut. Col. SUTER. Because I consider that the improvement of the stream for navigable purposes without it is impossible."

But it does not run through a wilderness. The riparian owners of the lower valley have been busy conjuring up different systems of taxation whereby money enough could be taken from their fields to build these levees high enough and strong enough to prevent further disaster from recurring overflows. In this way they have raised and put into these levees some sixty-odd million dollars since the close of the Civil War, which left the old levee system totally destroyed. But all through the upper valley there has been a most rapidly advancing civilization. The peoples of all the world have been attracted there, and the barren prairies and the trackless forests have both been subdued by the energies of man and brought under productive cultivation.

Under the stimulus of scientific study and intelligent experiment the drainage of vast areas has been undertaken. The bends have been cut off in the natural channels, main canals have been dug, the farms undertiled, and now when the rain falls instead of lagging superfluous in innumerable slashes and undrained swamps serving as natural reservoirs, it rushes into the tributaries and down the great river, bringing destruction to the farmers of the lower valley. The greatest of all floods, for instance, was the one just passed, 1912. Mr. Moore, Chief of the Weather Bureau at Washington, says that this flood was caused by "six rainstorms in the upper valley, which fell between March 10 and April 2, a period of three weeks."

These floods, thus precipitated upon the lower valley, wash away the banks, tumble the levees into the river, and verify all that Prentiss said about the river.

Col. Leach, of the Engineer Corps of the Army, said before the Senate committee:

"I may say generally with regard to the history of the levee system that over three-fourths, probably, of the entire sum of money expended by the States in the last 10 or 15 years in the construction of levees would have been saved if the United States had prevented the banks from caving."

Of course the planter in the lower valley does not wish to see the farmer in the upper valley injured by the surplus water which can be carried off by drainage, nor does the farmer in the upper valley at all relish the idea of destroying his brother farther down the river by turning this surplus water upon him too precipitately. What they both most earnestly desire is that out of the common Treasury of all the people the Congress shall appropriate money enough to so improve the river, which is the Nation's drainage ditch, that this surplus water may pass out to sea between permanent leveed banks.

To complete the levee system so as to bring it up to the grade and section believed to be strong enough to do this will require about $35,000,000. There are just about 35,000,000 people in the whole valley, and they would be very willing to contribute their per capita, 35 cents annually for the next three years, and that would settle it.

There are 15,000 miles of tributaries of this great stream, but I have touched only on those which are most prominent now in the public mind, leaving 10,000 miles of the Arkansas, the Red, the Yazoo, the White, and others of less tonnage and national concern.

I fear I have already overstepped the reasonable limitations of a short story. For this I must plead as excuse a lack of time to bring this article to a shorter measure.

Senator Morgan, of Alabama, was once asked how long he could speak on a certain subject. "If I had time to thoroughly digest the subject and prepare my address, I think I could talk for three days," he replied.

"But if you had no such time for preparation how long could you speak?

"Oh, indefinitely."

Mr. SHARP. Mr. Chairman, I yield one minute of my time to the gentleman from Georgia [Mr. TRIBBLE].

Mr. TRIBBLE. Mr. Chairman, I ask unanimous consent to extend my remarks in the RECORD by inserting an address delivered by Miss Mildred Lewis Rutherford, historian general of the United Daughters of the Confederacy, entitled "History relating to the War between the States."

The CHAIRMAN. The gentleman from Georgia [Mr. TRIBBLE] ask unanimous consent to print in the RECORD the article mentioned by him. Is there objection?

There was no objection.

[The address referred to is printed in the Appendix.]

Mr. SHARP. Mr. Chairman, I wish first to express my appreciation of the courtesy which has been so generously extended to me by both the gentlemen representing the majority and minority of this committee in yielding so much of the time to me. Although taking up one-half of the whole time allotted for general debate may seem as though it was an unwarranted consumption of the time of the House considering the need of expedition; yet if the grant of time that has been given to me is unfortunate in a personal sense, still the subject on which I wish to speak is worthy, not only of the most considerate attention of Members, but of many hours of the time of this House. Indeed this is one of the most important of all the appropriation bills, as the chairman of the committee has taken occasion to say, involving each year one of the largest items of our public expense.

I listened with much interest to the manly apology—I will put it in that way, although perhaps it does not deserve that name and was not so intended—of the worthy gentleman who is the chairman of this committee [Mr. SPARKMAN]. I can assure him that in so far as the precedent for the action of his committee, or the motives governing that action in reporting out the bill, comprehensive and large as it is, are concerned, no apology is needed. But if I may be permitted to read between the lines of his comments upon the features of this bill, I would say, rather, that the reason which prompted that apology, if I may again use that expression, comes from the fact that there is a generally recognized impression among the people at large that for some reason or other these appropriations are altogether too large for the benefits received, and that the few are getting special favors who ought to reimburse the Government therefor. And it is upon that phase of this subject that I wish to address my remarks this afternoon.

Of all subjects concerning which Congress has to deal in a legislative way, it seems to me that there is none more important than that of taxation and all that it involves. The very word itself means a contribution from the people, and as such a burden on them. Too often it also means, in a correlative sense, the development of an extravagance and a wastefulness of their money. Perhaps no better example could be given of a bill which, especially as it is regarded among the large class of our people who are not directly benefited thereby, comes in for more criticism at its annual appearance upon this floor than the rivers and harbors bill, which, together with its companion, the public-buildings bill, are supposed to be typical of "pork-barrel" legislation.

While what I shall say will have to do necessarily with several phases of the rivers and harbors legislation, yet I shall direct my remarks in the main to its consideration as it involves not only the element of taxation, but the maintenance of a special privilege more in the negative sense from exemption of a just imposition of a tollage system than from any positive action, which, it seems to me, has come to be indefensible. If there has been one complaint emphasized above another, which has been continuously voiced by public sentiment during the past few years, it has been that which has been directed against the so-called special-privilege legislation. It is obvious that such advantages may come from exempting from a just proportionate share of the burden of taxation quite as well as from the positive act granting such privileges to the few as against the many.

At different times, finding the urgent necessity of raising revenue to meet the constantly increasing burden of taxation upon our people, this method and that method have been resorted to in order to raise the revenues to equal these gigantic sums necessary to pay the bills of our billion-dollar Congresses. We have had excise bills, we have had personal income-tax bills amending the Constitution therefor, we have had corporation-tax bills, and we have had for many years that which like the poor we have always with us, the high tariff rates rendered absolutely necessary because of the exigencies presented in running the Government if we would keep our credit good.

We are all familiar with some of the definitions of taxation. I am not going into an abstruse consideration of these definitions as they concern political economy, but if I may take the time, I do want to quote briefly from the words of Mr. Justice Miller in the case of Loan Association *v.* Topeka, reported in Twentieth Wallace, page 655. Speaking of this power of taxation, he says:

> Of all the powers conferred upon the Government that of taxation is most liable to abuse. Given a purpose or object for which taxation may be lawfully used and the extent of its exercise is in its very nature unlimited. * * * The power to tax is therefore the strongest, the most pervading of all the powers of government, reaching directly or indirectly to all classes of the people. It was said by Chief Justice Marshall, in the case of McCullough *v.* the State of Maryland, that the power to tax is the power to destroy. * * * This power can as readily be employed against one class of individuals and in favor of another, so as to ruin the one class and give unlimited wealth and prosperity to the other, if there is any implied limitation of the uses for which the power may be exercised.
>
> To lay with one hand the power of the Government on the property of the citizen and with the other to bestow it upon favored individuals to aid private enterprises and build up private fortunes is none the less a robbery because it is done under the forms of law and is called taxation. This is not legislation; it is a decree under legislative forms.

That is the definition of the power of taxation by a former learned judge of the Supreme Court of the United States.

We are familiar with the four maxims laid down by Adam Smith, the noted political economist of England, and it is a coincidence that in the year of the declaration of our national independence, away back in 1776, he gave expression in his Wealth of Nations to these rules governing this power of taxation. The first is the one that is most fundamentally important, and of all the others is most commonly violated:

> The subjects of every state ought to contribute to the support of the government as nearly as possible in proportion to their respective abilities; that is, in proportion to the revenue which they respectively enjoy under the protection of the state. In the observation or neglect of this maxim consists what is called the equality or inequality of taxation.

Thus wrote Adam Smith nearly a century and a half ago.

That shall be the text of the remarks which I wish to make this afternoon, and it concerns a method of taxation, if I may call it such, which, while a radical innovation in this country as applied to our river and harbor legislation, is quite common in other commercial countries, especially in Europe.

I refer in so many words to the advisability now, if not even the necessity, if we are to keep on with the widespread Government improvements of our rivers and harbors, of taxing the special beneficiaries of these indulgences from the Government according to the measure in which they receive them. There is no more patent reform needed and no more legitimate source of revenue than the levying of what may be called tonnage tolls upon what have been objects of our governmental paternalism since the very creation of the Government. I refer to the shipping interests which have been favored by our Government to an extent unparalleled by any other nation. Let me in other words epitomize my remarks in this single sentence—I would require those who are using our great national waterways for transportation purposes to pay into the Public Treasury a fair amount for the valuable privileges the Government is extending to them every year by the expenditure of many millions of dollars in the improvement of navigation.

Mr. MURRAY. Will the gentleman from Ohio yield?

Mr. SHARP. My time is very brief.

Mr. MURRAY. I do not care to interrupt the gentleman unless he wishes, but I had a question that occurred to me on occasions when similar suggestions have been made, that under such an arrangement would not the burden of this right be borne ultimately by the shippers and then by the consumers of the country, and that more than likely the consumers would be required to pay a greater proportion of the cost than they are now compelled to pay through Government taxation?

Mr. SHARP. I wish to say in answer to the suggestion of the gentleman from Massachusetts that I intend to come to that before I finish my remarks, and if I do not I ask the gentleman to interrupt me that I may answer him specifically.

Mr. MURRAY. I asked the gentleman that as a question and not as stating my opinion.

Mr. SHARP. The distinguished gentleman from Tennessee [Mr. HULL], who was justly given the credit by the chairman of the Committee on Ways and Means, Mr. UNDERWOOD, at the last session, for being the author of the excise bill, called attention in his able discourse to the system by which personal property so largely escaped taxation in this country. He took occasion at that time to quote from the special tax commission appointed under the laws of the State of New York within the last six years. If there is anything that is enlightening upon this subject, it is certainly the conclusion of the statement made by the chairman of that commission, who was a former United States Senator, if I am not mistaken. He said that they had discovered that although there was only something like $800,000,000 of personal property upon the tax duplicate in the great State of New York, yet they had found, as a matter of

fact, that there was actually an excess of 30 times that amount of personal property in that State; in other words, less than 3½ per cent of the personal property was taxed at all, and I presume that no considerable amount of that $25,000,000,000 had anything to do with franchises and intangible rights and privileges that many times, as we all know, approximate the real value of the taxable property itself. It is indeed, Mr. Chairman, one of these privileges, analogous in character, that our Government is extending every year to those who are the special beneficiaries under present-day river and harbor legislation.

To the merest tyro in the knowledge as to the manner in which taxes are levied a man's home and his visible personal property, tangible and real in their nature, are the first objects to be taxed. But it is the intangible, the unseen, mere rights or privileges, which go untaxed, that are often of really the most value and from which the greatest revenues are derived. Such property, if I may use that expression, of this intangible character very commonly comes from grants, either to individuals or to corporations, at almost no cost whatever. In many cases, in their exercise and use, preempted as they are by first possession of those holding such grants, they become exclusive monopolies, and it remains only in theory and not at all in possible practice that such rights and privileges are common and equally open to others.

Justice Bradley, in the case of the Transportation Co. against Parkersburg, in the One hundred and seventh United States, referring to a case brought up from West Virginia, used this language, which I think is exceedingly appropriate as outlining the authority which the United States Government possesses not only upon our navigable waters but to what extent it has been exercised:

> In the exercise of this authority over navigable waters Congress has, from the commencement of the Government, erected lighthouses, breakwaters, and piers, not only on the seacoast but in the navigable rivers of the country, and has improved the navigation of rivers by dredging and cleaning them and making new channels and jetties and adopting every other means of making them more capable of meeting the growing and extending demands of commerce. It has extended its supervision in an especial manner to the Ohio River. Amongst other things, it has overcome the obstacle presented by the falls at Louisville by the construction of an expensive canal. It has created ports of delivery along the river, of which the city of Parkersburg itself is one, and others are at Pittsburgh, Wheeling, Cincinnati, Louisville, Madison, Jeffersonville, New Albany, Evansville, Paducah, and Cairo. It has regulated the bridges which have been thrown across the river by authority of the States. It authorized the Wheeling Bridge to stand after this court had declared it to be a nuisance, requiring the officers of all vessels to regulate their pipes and chimneys so as not to interfere with the bridge, thus extending its common protection to commerce by land and commerce by water. It required the Newport and Cincinnati Bridge to be moved or placed at a greater height above the water, after having been constructed in accordance with the laws of the States and of the United States.

But if the learned judge who rendered this decision, more than 35 years ago, should inspect the bill before us and see to what extent we were now extending our Government paternalism, I wonder if he would not, along with many of us, ask the question, For whom are these special benefits created, and for what return? There is not a Member on the floor who has courage enough or, shall I not better say, who is imprudent enough to stand in his place and propose that a subsidy or some special benefit be given by the Government of the United States to any railroad in this country. Surely what the governments of foreign countries—and that whether the improvements are made by private enterprises or by the Government—long ago inaugurated in imposing reasonable tolls for such privileges ought not to be unjust when applied in this country, where dollars to their dimes are annually expended. Even automobilists are taxed in order that they may contribute to the better improvement of our highways, while in our reclamation and irrigation projects no one would think for a moment that the Government ought not to be reimbursed by those who are especially benefited by such improvements.

But what are we doing for these great water highways? While no one would think of extending that aid to the railroads, yet for the steamships which ply upon our Great Lakes and upon our larger rivers we virtually, though figuratively speaking, give to them the right of way—in fact, do the grading, lay the ties, and furnish the rails for them; nay, more, we erect beacons and danger signals for their guidance. And we do not ask a single dollar in return. Is this just?

Mr. MURRAY. Mr. Chairman, will the gentleman yield?

Mr. SHARP. Mr. Chairman, I will ask not to be interrupted just now. It is because the people have come to understand that certain privileges of this kind are unfairly given, though they do not perhaps know just how, that they believe that the greatly increasing concentration of wealth in the hands not alone of our transportation companies, but in many other lines of activity, has been due to this practice, and they look upon any further legislation in their interests with suspicion. I may say, as amplifying the suggestion of the gentleman from Pennsylvania [Mr. MOORE], when he asked if there had been hearings upon this bill, it would not be a bad practice, as I look at it, if hereafter in all of these bills appropriating, as the chairman of the committee has said, for many, many different items, aggregating several hundred, if there was—especially in the absence of the printing of these hearings—appended to the bill with each appropriation a statement, not necessarily involving more than three or four lines in length, that would show not only what the present appropriation of money is, but what has been the total up to date and what tonnage is carried upon those particular waters. Then this membership of 391—370 of whom are not members of that committee and are not in touch with the work, thus having no special knowledge of the facts presented—would have some basis on which to rest their judgment when they come to vote. This is only a suggestion. It is intended in no way as a reflection upon the judgment or good intent of this committee, for the personnel of which, collectively as well as individually, I have the highest regard.

I speak from a decided conviction on this subject as coming from a personal observation of many years. Recently, within the past few months, I have had these views somewhat accentuated, and I have been more than ever confirmed in the belief that I am right in my contention that those who are specially benefited ought to contribute to the Government in making these great appropriations to the extent at least of the cost of maintenance. Recently I had occasion to appear before the Board of Engineers upon a matter calling for a survey of a river entering a harbor located in my district. The answer of that board was about what I expected. I was not disappointed in their reply, nor in the position they took. It was entirely consistent, in so far as the answer itself went, when the board said it would be very glad to make this recommendation of an extension of the Government work back of the harbor line, if possible, but that precedents had been set which commit the Government to making improvements only to the shore line. The board frankly expressed the opinion that the Government was unable financially to make any improvements involving so great an expenditure. They believed such work ought to be placed upon the shoulders of the community in which the project was located. Now, I would as soon take the judgment of that board as to the necessity for and value of our river and harbor improvements as I would the opinions of any other set of experts in the United States, because they have had to consider many phases of legislation involving a great variety of projects. When, however, they took the position that the community or city located at the mouth of that river ought to itself make these improvements, this thought came to my mind very strongly. If the Government of the United States, by the authority given to Congress under the Constitution to develop and regulate commerce, can not afford to do this, why should a community be asked to do it? Possibly I may indulge in some sophistry in asking this question. The answer probably would be because the community obtains certain special benefits which would be derived from the improvement of the harbor. While the logic of this answer seems sound, is there any good reason why it should not be carried to its legitimate conclusion and place upon the carriers, for whose more expeditious and economical operations these improvements are made, a just proportion of their cost? A little more than three years ago the rivers and harbors bill contained a provision as follows:

> The Secretary of War is authorized to appoint a board of engineers to examine those harbors on the Great Lakes and elsewhere in which the whole or a part of the harbor is improved at local expense, which board shall make recommendations with a view to determining whether the improvements so made by local authorities should be undertaken or maintained by the General Government and to establishing uniform rules in making harbor improvements.

In accordance with such authority the Secretary appointed a board of officers of the Corps of Engineers, which board, after visiting many harbors, not only on the Great Lakes but several upon the Atlantic seacoast, made a most interesting report containing several recommendations covering the questions involved. One of these recommendations reads as follows:

> 2. That no work of construction or maintenance be undertaken by the Government at any harbor constructed by and operated in the interest of a corporation or private person, and adapted to the promotion of such interest only.

The recommendation further declares against the General Government undertaking to maintain improvements where they have been carried on at local expense. In reviewing the report, however, the Board of Engineers for Rivers and Harbors qualified the conclusions above referred to to the extent that there might be such conditions where improvements already made by local interests might be further improved or maintained by the General Government.

The most interesting part of that report consists in the differentiation of the classes of harbor or river projects as concerns

the disposition of the freight or tonnage business respectively carried on. With much justice it was maintained that where a large proportion of such tonnage was merely in transitu—that is, was not to be stopped at the harbor of entrance for fabrication into finished products, but was to be carried on to distant points—the duty of the local community to improve such harbor was at least not so clearly established. In such cases, to use the language of the report, "they could properly be provided and maintained at the national expense." But with an equal degree of justice it was pointed out that the case would be entirely different where practically all of the tonnage was to be manufactured into finished products in the city where the harbor was located. The benefits of such manufacturing industries to the communities are fully discussed, not only as they have to do directly with the growth of population of the community, but also as the increased value of real estate is affected. Again, let me quote from the report mentioned as bearing upon these last-named conditions:

In the ordinary improvements made in cities, such as the paving of streets, the laying of sewers, or the opening of parks, the property immediately benefited is made to pay a part at least of the cost of the improvement, and the city can in time recoup itself for the rest by the increased taxes that will follow from the added value of the property. In the improvement of a harbor the United States can not do this, for these things are out of reach of the General Government and can only be dealt with locally.

It follows, therefore, that in the case of harbors or parts of harbors devoted to the class of commerce destined for local consumption or distribution, or for local manufacture or milling in transit, there is a special local interest, advantage, and profit in excess of the general interest and value. There is a gain in which the general public does not and can not share, and there are sources of revenue resulting from such harbor development that are accessible to the local government, but are beyond the reach of the General Government. Therefore in the improvement and maintenance of harbors or parts of harbors where the commerce is of this character there ought to be a division of cost between the local and the General Governments in a proportion that should bear the same relation that the local and special profit and value of the commerce bears to the general profit and value.

While of no particular interest to the present discussion, it seems to me there is still some application in the fact that the city of Lorain, whose interest I was pleased to represent, although having a population of somewhat under 30,000 according to the last census, has in years past bonded itself to the extent of more than $500,000 to improve the river entering into that harbor, and yet more than 80 per cent of the tonnage of the harbor, which is one of the most important on Lake Erie, found no lodgment there, but was carried out over the railroads for general distribution to distant points. Clearly the character of that commerce comes within the exception made by the board of engineers under which the harbor "could properly be provided and maintained at the national expense." Into that harbor arrive and depart the largest steamers on the Lakes, rivaling in size those that sail on the ocean, and which, during the past season alone, carried into and out of that port more than six and a half millions of tons of freight in less than eight months of navigation. How many tons of freight do you think those great lake steamers carry? I have seen them time after time leave harbors up at the north end of Lake Superior having in their holds a tonnage that 4 freight trains with 50 cars to a single train, each a half mile long, could not carry. The report of the National Waterways Commission, to which I will refer later on, states that as far as the Great Lakes are concerned this tonnage can be brought down from a fifth to a sixth of what it can be carried for by rail.

This great economic saving in the cost of transportation has not been accomplished in a day nor at the expense of any ordinary sum of money. In so far as the traffic on the Great Lakes is concerned, the volume was comparatively light until 1885. From that time down to the present the percentage carried has increased from something more than 3,000,000 to approximately 60,000,000 tons. These figures are confined to the business going through St. Marys Canal alone; they do not include a considerable traffic which did not go through the canal. While the discovery of large beds of iron ore at the head of the Lakes had much to do with this increase of business, yet it could not have been possibly accomplished without the use of many millions of dollars expended by the Government in improving navigation. These aids have taken the form of construction of additional locks at the Soo Canal, the widening of channels, dredging of rivers, and deepening of harbors. The extent of such improvements may be illustrated in the fact that during the past seven years upward of $35,000,000 have been expended in this kind of work alone. One of these improvements, the Nebish Canal, extending something like a mile in length and involving the removal of many thousands of tons of solid rock, cost upward of $4,500,000. Many other projects less ambitious in character have been constructed by the Government.

We are all familiar with the methods of getting under way these projects involving the improvements to navigation. Sometimes the movement is started by those directly engaged in the transportation business, thus being the special beneficiaries of such legislation, sometimes by the communities in which the expenditures are to be made, and very frequently by the joint efforts of both. The ultimate object presumably—and it is entirely proper that it should be so—is the securing of better transportation facilities which follow from the ability to carry freight with greater expedition and in larger volume at a material reduction in cost.

Assuming that the survey for such project has been authorized and it is found to be a meritorious proposition, the improvement as recommended is commenced. In due time, its duration depending largely upon the character of the improvement and the expedition with which it is prosecuted, the work is completed at an expense to the Government running all the way from a few thousand dollars to many millions. It needs no uncommon discernment to see to whom the benefits, in a large measure, of the Government's aid go. Why, they go to those who are carrying on commerce in the transportation business, just the same as the railroad companies are carrying on theirs. There is no difference in its character except that one cargo is carried by water and the other is carried by land. That is the only difference.

And the railroad companies, be it said to the credit of their shrewdness, in more than one instance upon the Great Lakes, as you will find, and upon our larger rivers, seeing that for some reason or other the Government is so much kinder to the fellow who carries a cargo by water, have themselves done a little business of their own in that line, and have taken to the water. They, too, own some big boats. I do not quote the figures from official sources, but I am surely warranted in saying that whereas 20 years ago there were 90 per cent of the vessels upon the northern lakes of less than 3,500 tons capacity, to-day 80 per cent of this tonnage is carried in boats from 500 to 600 feet in length, bearing cargoes of from 8,000 to 12,000 tons. As a natural sequence of this evolution in the development of transportation, the inevitable result followed—the small boats have been driven off from the Lakes. While this may be considered as merely an incident in the inexorable law of commercial and industrial progress, yet such advantages have been made no less truly possible by our Government's beneficence.

Would I oppose Government aid to our navigable waterways? Not at all. On the contrary, where the development of a project can be predicated upon a reasonable belief that a legitimate competition in the carrying of freight can be secured and to such an extent as will justify the expenditure, I think it properly affords an object for governmental aid. Neither have I any criticism to offer of those, big and little, who have been fortunate enough to receive such aid under the present system of river and harbor legislation. It would indeed be unfair, in pointing out the extravagance or lack of merit of some of these propositions, to lose sight of the fact that through them in very many instances, especially where deep-waterway projects have been involved, the benefit to commerce has been very great. Undoubtedly in the past, before transportation by railroad became so general, such cooperation was absolutely necessary to facilitate the carrying of freight at any reasonable cost. But with the enormous development of our country in population and resources transportation problems have greatly changed in their character. To-day for every ton of freight carried by water there are more than 12 tons carried by rail. While admitting that the alternative choice of shipping by water has had a most salutary effect in affording competition with the charges made by railroad companies, yet it is undeniable that in many instances such competition is out of the question, no matter to what extent artificial aid may be given to navigation in its development.

I am not at all so sure, gentlemen, and I feel a little diffidence in putting up my own views against the riper experience, born of long knowledge, of the members of this committee, when I say that I am not at all sure that there are not many items in the present bill of unimportant waterways and harbors that never ought to be encouraged by a single dollar.

In considering such projects, Mr. Chairman, may I not draw an analogy with the plant which can not stand alone but must find its strength in the latticework upon which it grows, and the higher it grows the tighter it clings to its friendly support? That is often the attitude of the paternalistic objects of governmental aid. Two years ago, by authority of law, a commission was appointed called the National Waterways Commission. Senator BURTON, for many years the able chairman of the Rivers and Harbors Committee, headed this commission. It made a most elaborate and instructive report. That report covers almost every conceivable condition that would be de-

sirable to know as it affects European waterways as well as those of this country.

While in poring through the commission's report I did not find any specific recommendations for establishing tolls in this country—for, as I stated in the outset of my remarks, such a system would be a radical innovation in our practice—yet it nowhere, so far as I am able to discover, contains any criticism of the efficiency or justice of the tollage plan as applied to European waterways. Its findings and recommendations are certainly interesting, as they have to do with what I may properly term a reformation in our own practice of making appropriations for navigable waterways.

Nearly every page contains facts as to foreign waterways on which they impose tolls and the satisfactory operation of such a system. This tollage question, as you know, has been emphasized more recently upon this floor in the matter involving the maintenance of the Panama Canal. We know what has been done as to the Suez Canal. That canal cost nearly one-third as much as the Panama Canal, something like $125,000,000, but that great work has not only been self-sustaining almost since the day it was completed, over 40 years ago, but it has yielded millions of dollars of revenue for the stockholders of the concern, and, if I am correctly informed, the company has a provision in its franchise that whenever the earnings exceed a certain amount the tollage will be automatically decreased. I believe that to be a fact. President Taft has seen fit to impose a toll for the Panama Canal somewhat less than that of the Suez Canal, not upon the freight carried but upon the net tonnage of the vessel itself.

Let me now apply the principle of the payment of tolls or tonnage tax to the traffic upon our own domestic navigable waters. During the past few years there has been in excess of 130,000,000 tons of freight annually carried upon our navigable waters, about one-half of which is handled at the harbors on the Great Lakes. Would it be unjust to impose upon these shippers handling this immense tonnage such a duty as would at least maintain and repair all such Government-aided improvements? I believe the imposition of a moderate duty ranging from 5 cents to 10 cents per ton—less than the average rate imposed in other countries—placed upon the net tonnage capacity of the vessels would fully meet these demands. Such a toll so levied should yield a net annual revenue exceeding $8,000,000. Under such a manifestly fair plan of raising revenue, and which I hope in due time to see authorized by Congress, the maintenance items in this bill totaling, as the chairman of the committee points out in his fair-minded report, $2,222,650, could not only be readily taken care of, but the balance expended in making additional improvements where warranted. Indeed, aside from the inherent justice of the proposition to require a fair return from those who reap these special benefits, I believe such legislation would be in the interest of a better development of our waterways.

I referred a moment ago to the plan recently decided upon in reference to the imposition of tolls for the use of the Panama Canal. To those of my colleagues who have not had an opportunity of reading the report of Emery R. Johnson, special commissioner of Panama Canal traffic and tolls, I would recommend its early perusal. I can not speak in terms too high in its praise. Not only is the information therein contained of great value, but it is most logically and systematically presented.

As bearing upon the contention which I am making, I can not do better than to quote from one who has given an exhaustive study to the subject of levying tolls in return for special privileges under our navigation laws. Under the subhead of "Principles and considerations that should control in fixing tolls" the author says:

> The canal will cost the United States Government $375,000,000, much of which has been or will be secured by borrowing funds. The interest and principal of this debt must be paid either from funds secured by general taxes or from the revenues derived from canal tolls. It seems wise and prudent that the United States should adhere to sound business principles in the operation of the canal and in levying tolls. Public expenditures are increasing rapidly. Funds are required in increasing amount for the promotion of the public health, for irrigation and reclamation, and for maintaining the military power and naval prestige of the United States. Large expenditures upon rivers and harbors are urgently needed. Taxes must inevitably increase. The demands upon the United States are certain to be much greater in the future than they have been in the past, and it does not seem wise for the Federal Government to construct and maintain at the expense of the general budget such a costly public work as the Panama Canal. Those who derive immediate benefit from the use of the Panama Canal may properly return to the Government a portion of the profit secured from using the canal, provided this policy can be followed out without burdening commerce.

In summarizing his conclusions, the author, Mr. Johnson, further says:

> The United States should adhere to business principles in the management of the Panama Canal. The Government needs to guard its revenues carefully. Present demands on the general budget are heavy and are certain to be larger. Taxes must necessarily increase. Those who directly benefit from using the canal, rather than the general taxpayers, ought to pay the expenses of operating and carrying the Panama Canal commercially.

If there is any difference of principle involved or reason therefor concerning the levying of tolls as to the subject matter just quoted, as it applies to the navigation of our domestic waters, I fail to see it. If it is urged that the Panama Canal is a much greater proposition because it has cost so great a sum of money, my answer is that the aggregate of appropriations for river and harbor improvements in this country is still much in excess of that amount, great as it is.

If it is still further urged that the volume of business to be carried on at the Panama Canal is much larger, I am again sustained in my argument by pointing to the fact that the traffic upon our Great Lakes alone each year amounts to three times the tonnage that is estimated to go through the Panama Canal 10 years hence, while upon all of our navigable waters it is six times as great. Are you aware of the fact that within the past five years, including the amount of the present bill—$40,872,958—there has been a total sum appropriated by the Rivers and Harbors Committee exceeding $175,000,000, and that, with a single exception, the appropriation each year has greatly exceeded that of the preceding one? Indeed, the right and propriety of levying such tolls has been sustained time and again by our State and Supreme Courts. When the ordinance of 1787 was set up in the early cases as a defense against the imposition of such tolls the decisions of the courts uniformly considered its provisions as referring to navigation in its natural state. Upon this point, in the case of Huse *v.* Glover (119 U. S. Repts., 543), Justice Fields succinctly says:

> The provision of the clause that the navigable streams should be highways without any tax, impost, or duty has reference to their navigation in their natural state. It did not contemplate that such navigation might not be improved by artificial means, by the removal of obstructions, or by the making of dams for deepening the waters, or by turning into the rivers waters from other streams to increase their depth. For outlays caused by such work the State may exact reasonable tolls. * * *
>
> By the terms "tax, impost, and duty" mentioned in the ordinance is meant a charge for the use of the Government, not compensation for improvements.

The same view was taken some years later by the learned Justice Campbell, of the Supreme Court of Michigan, in the case of Manistee River Improvement Co. *v.* Sands (53 Mich. Rep., 596), in which he says:

> The idea that tolls for the actual use of passage over land or water highways can be treated as taxes and as invasions of private property does not appear to us tenable. They are not levied on property or on persons as their share of any public burden laid on the people, but they are a fixed compensation in lieu of a quantam valet for the use of that which has value and which is actually used to advantage. * * *

While decisions of similar import could be quoted from many other cases in our highest courts, I would like to refer to a rather curious and, I think, little known provision of an old-time instrument of historical interest, which, while specifically directing that duties shall be levied upon navigation improved by Government aid to pay the cost thereof, also sought to narrow the power to appropriate money for any internal improvement for commercial development whatever. Let me quote a section of the constitution of the Confederate States of America adopted in 1861. In enumerating the powers of the general government, I find this language:

> To regulate commerce with foreign nations, and among the several States, and with the Indian tribes; but neither this nor any other clause contained in the constitution shall ever be construed to delegate the power to congress to appropriate money for any internal improvement intended to facilitate commerce except for the purpose of furnishing lights, beacons, and buoys, and other aids to navigation upon the coasts, and the improvement of harbors and the removing of obstructions in river navigation, in all which cases such duties shall be laid on the navigation facilitated thereby, as may be necessary to pay the costs and expenses thereof.

How impotent, indeed, would be the efforts of those of my colleagues under such a constitution in behalf of so many of their favorite projects. Indeed, the laudable plans now contemplated in the further improvement of the Mississippi River with its great tributaries, the Missouri and Ohio, even for sanitation purposes and the better security from inundations, let alone for purposes of navigation, might be seriously endangered or at least much retarded by such drastic restrictions of such a constitutional provision. Fortunately I believe there is no sentiment or feeling on the part of Congress against granting appropriations for such purposes. But the reasoning of the framers of that old Confederate instrument, in so far as levying reasonable duties or tolls upon navigation facilities by Government appropriations, to my mind is still sound.

While, Mr. Chairman, the remainder of the time allotted me is short, I am reminded of the question raised by the gentleman from Massachusetts [Mr. MURRAY] as to whether ultimately the consumer would not have to pay this additional toll or

tonnage charge so levied. I do not know that I can answer the gentleman in a better way than to quote from a most excellent treatise by Prof. Harold G. Moulton, instructor in political economy in the University of Chicago, which is devoted to a consideration of many of the problems now under discussion. Upon the particular point which the gentleman raises, Prof. Moulton says:

Freight rates have now become so small in proportion to the value of the commodities of traffic that in most cases nothing short of a tremendous cheapening of transportation would be reflected in the prices of the articles, and rate reductions now usually accrue almost wholly to the benefit of middlemen.

Quoting from McPherson, on railroad freight rates, the author says:

The transportation charge on the material entering into a pair of shoes made in a St. Louis factory averages 1¼ cents. The transportation charge required to place that pair of shoes in the hands of the consumer in any part of the United States averages between 2 cents and 3 cents. This makes a total charge of approximately 4 cents.

Suppose our waterways should effect even a 50 per cent reduction of freight rates, we should have a saving of only 2 cents on a pair of shoes. It is hardly probable that such a saving would cause the shoes to retail at 2 cents less than formerly. The saving would be absorbed by the shipper and middlemen, and the consumer would be benefited not at all. But this charge, even as small as it is, applies to half of the entire freight charge on a single pair of shoes. Surely it would not be seriously contended that the buyer of such pair of shoes would be required to pay his proportionate share of a toll charge of 5 cents on a whole ton of such footwear.

In considering the more bulky kind of freight, which after all constitutes a very great proportion of the tonnage carried upon our navigable waters, for it is of that class of freight in which I take it that the greatest economy is effected, the author quoted says:

Even with the more bulky class of freight the cost is not greatly different. The railways which carry coal to Chicago were recently permitted to make a freight raise of 7 cents a ton on coal. The result was a 25-cent increase in the price of coal, 18 cents of which represents the increased profits of middlemen. Is it reasonable to believe that under reversed conditions a reduction of 7 cents a ton in the railway charge on coal would lead the coal dealers to lower their price 25 cents a ton, or indeed at all?

He adds the sage conclusion, which is coming to be quite generally recognized, that "this is fast coming to be the age of monopolized retail trade." If I remember correctly, Commissioner Johnson, in his canal report referred to, takes substantially the same view of this question. As a matter of fact, however, too well known to be controverted, especially as the statement applies to navigation on the Great Lakes, a very large proportion of the tonnage carried is owned by the vessel owners themselves. In such cases they often own the mines, the products of these mines, the boats which carry them, and the mills which convert them into finished products.

The CHAIRMAN. The time of the gentleman has expired.

Mr. SHARP. I would like to have one minute more.

Mr. SPARKMAN. Mr. Chairman, I yield two minutes more to the gentleman.

The CHAIRMAN. The gentleman from Ohio [Mr. SHARP] is recognized for two minutes more.

Mr. SHARP. It would be an interesting digression for me, if I had the time and you had the patience, to consider the merits of these different phases of the subject as they relate to advantages accruing from lower rates. I thank you very much for your patience in remaining here so late in the day and hearing me talk. But the main point I wish to fix upon your minds, Members of this House—because I know I speak in the interest of equal taxation and justice—is that those who get these special benefits ought to pay their just proportion of the burden, which, under our present system, is wholly placed upon the shoulders of the American people.

Mr. RANSDELL of Louisiana. May I ask the gentleman just one question?

Mr. SHARP. Just one question.

Mr. RANSDELL of Louisiana. The gentleman says that there have been something over $100,000,000 expended on the Great Lakes. I should like to ask him if there is not now passing through the Detroit River a commerce approximating 70,000,000 to 75,000,000 tons annually, carried at an actual cost to the American people of about eight-tenths of 1 mill per ton per mile as compared with an average railroad cost of about 7½ mills per ton per mile? And I should like to ask the gentleman, if you compute this enormous commerce, approximating 70,000,000 tons carried at this very cheap rate, benefiting thereby the whole American people—for they all get the benefit of cheap coal and cheap iron ore—if you compute that commerce at the average rail rate, would not the American people have had to pay about $300,000,000 annually for transportation in excess of what they now pay?

Mr. SHARP. May I have time to answer that question, Mr. Chairman?

Mr. SPARKMAN. I will yield to the gentleman one minute more.

Mr. SHARP. I am very glad that the distinguished gentleman from Louisiana [Mr. RANSDELL], who is the chairman of an organization favoring this legislation, and knows very much about the subject, has asked me that question. I think if there is any sophistry that can be plainly seen and easily uncovered, it is that which is so thinly veiled in his statement as it relates to the cost.

The cost to whom? When you figure the cost to a railroad, you figure the cost of the construction, the cost of the operation and everything combined; but when you figure the cost of the transportation upon these Great Lakes and rivers of our country, do you ever stop to figure the cost that the Government has paid, and not the vessel owners themselves? If you consider the cost to the Government of the United States—that which the people, if you please, have paid for the benefit of these transportation companies in improving our navigable waters—then there would be a different story to tell. But even then is there anything unjust in asking the fellow who shipped the goods to pay it, and not the people at large?

But does not the gentleman's question in itself furnish a sufficient reason for the justice of requiring a fair return for the advantages which he states? Surely, if the improvement of navigation upon the Great Lakes, which is largely due to governmental aid, has enabled the shipping interests to so successfully prosecute their business by means of much lower freight rates, is it unjust to ask from them some return therefor? And is not the gentleman aware of the fact that in many instances the very ability of the larger shippers to carry at such reduced rates has greatly enhanced the value of their holdings in the mines, forests, and other properties from which these products are transported?

The CHAIRMAN. The time of the gentleman has expired.

Mr. RANSDELL of Louisiana. I should like to ask the gentleman some more questions.

Mr. SHARP. I should be only too glad to answer them.

Mr. SPARKMAN. I yield the balance of my time to the gentleman from North Carolina [Mr. SMALL].

The CHAIRMAN. The gentleman from North Carolina [Mr. SMALL] is recognized for four minutes.

[Mr. SMALL addressed the committee. See Appendix.]

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. FOSTER having taken the chair as Speaker pro tempore, a message from the Senate, by Mr. Curtiss, one of its clerks, announced that the Senate had passed the following resolution, in which the concurrence of the House of Representatives was requested:

Senate concurrent resolution 35.

Resolved by the Senate (the House of Representatives concurring), That the two Houses of Congress shall assemble in the Hall of the House of Representatives on Wednesday, the 12th day of February, 1913, at 1 o'clock in the afternoon, pursuant to the requirements of the Constitution and laws relating to the election of President and Vice President of the United States, and the President of the Senate pro tempore shall be their presiding officer; that two tellers shall be previously appointed on the part of the Senate and two on the part of the House of Representatives, to whom shall be handed, as they are opened by the President of the Senate pro tempore, all the certificates and papers purporting to be certificates of the electoral votes, which certificates and papers shall be opened, presented, and acted upon in the alphabetical order of the States, beginning with the letter A; and said tellers, having then read the same in the presence and hearing of the two Houses, shall make a list of the votes as they shall appear from the said certificates; and the votes having been ascertained and counted in the manner and according to the rules by law provided, the result of the same shall be delivered to the President of the Senate pro tempore, who shall thereupon announce the state of the vote, which announcement shall be deemed a sufficient declaration of the persons, if any, elected President and Vice President of the United States, and, together with a list of the votes, be entered on the Journals of the two Houses.

RIVER AND HARBOR APPROPRIATION BILL.

The committee resumed its session.

The CHAIRMAN. The time for general debate has expired, and the Clerk will read the bill for amendment.

The Clerk proceeded with the reading of the bill and read as follows:

Be it enacted, etc., That the following sums of money be, and are hereby, appropriated, to be paid out of any money in the Treasury not otherwise appropriated, to be immediately available, and to be expended under the direction of the Secretary of War and the supervision of the Chief of Engineers, for the construction, completion, repair, and preservation of the public works hereinafter named.

Mr. MOORE of Pennsylvania. Mr. Chairman, I make the point of order that there is no quorum present.

Mr. SMALL. Will the gentleman withhold his point, as I may not be able to be here on Thursday?

Mr. MOORE of Pennsylvania. I will reserve the point of order for the present.

Mr. SMALL. I ask unanimous consent to extend my remarks in the RECORD.

The CHAIRMAN. The gentleman from North Carolina asks unanimous consent to extend his remarks in the RECORD. Is there objection?

There was no objection.

Mr. SPARKMAN. Mr. Chairman, I ask leave to extend my remarks in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida? [After a pause.] The Chair hears none.

Mr. SMALL. Mr. Chairman, I ask unanimous consent to proceed for five minutes.

The CHAIRMAN. The gentleman from North Carolina asks unanimous consent to address the committee for five minutes. Is there objection?

There was no objection.

[Mr. SMALL addressed the committee. See Appendix.]

Mr. SHARP. Mr. Chairman, I ask unanimous consent to extend my remarks in the RECORD.

The CHAIRMAN. The gentleman from Ohio asks unanimous consent to extend his remarks in the RECORD. Is there objection?

There was no objection.

The Clerk read as follows:

Improving harbor at Boston, Mass.: For maintenance, $25,000.

Mr. MOORE of Pennsylvania. Mr. Chairman, I wish the chairman of the committee would tell whether Chelsea Creek, for which the appropriation was made last year, is wholly within the port of Boston?

Mr. SPARKMAN. I am under the impression that it is.

Mr. MOORE of Pennsylvania. It bisects the city?

Mr. SPARKMAN. Yes; it runs into the city some distance.

Mr. MOORE of Pennsylvania. Wholly within the city limits?

Mr. SPARKMAN. Yes.

The Clerk read as follows:

Improving Providence River and Harbor, R. I.: Completing improvement in accordance with the report submitted in House Document No. 919, Sixtieth Congress, first session, $164,800.

Mr. MOORE of Pennsylvania. Mr. Chairman, may I inquire of the chairman whether the city of Providence or the State of Rhode Island make any contribution toward this improvement?

Mr. SPARKMAN. I am under the impression there is none being made at this time. I do not think any ever has been made by the city or any local authorities there. That is my recollection of it.

Mr. MOORE of Pennsylvania. I was under the impression that Rhode Island did make a contribution.

Mr. SPARKMAN. Not to this project, but on another project on the other side of the channel.

The Clerk read as follows:

Improving Connecticut River, Conn.: For maintenance of improvement below Hartford, $15,000.

Mr. MOORE of Pennsylvania. Mr. Chairman, may I ask the gentleman from Florida what has become of the appropriation for improving the Connecticut River above Hartford?

Mr. SPARKMAN. I do not recall. Probably the gentleman from Massachusetts [Mr. LAWRENCE] can answer the question, as he is quite familiar with the project.

Mr. LAWRENCE. As I understand, none of the appropriation carried in the last bill for the Connecticut River above Hartford, amounting to $25,000, has been used. I assume this is the reason: There is now pending in Congress a favorable report from the War Department upon a project for the development of power and navigation at Windsor Locks, which is some distance above Hartford. If the corporation which is seeking the right to build a dam and develop power at that point is given the right, it has been recommended that something in the neighborhood of about $1,000,000 be expended by the National Government, which would give very excellent navigation all the way from Hartford up to Holyoke, and while this is pending I assume the War Department will not expend the $25,000 which was appropriated in 1912.

Mr. MOORE of Pennsylvania. Then it is held up pending the adjustment of the water-power question?

Mr. LAWRENCE. Pending the action of Congress on that water-power question.

Mr. MOORE of Pennsylvania. The Connecticut is an interstate river?

Mr. LAWRENCE. Yes.

Mr. MOORE of Pennsylvania. It runs through Connecticut and Massachusetts?

Mr. LAWRENCE. Yes.

Mr. MOORE of Pennsylvania. And taps Holyoke and Springfield and other manufacturing towns?

Mr. LAWRENCE. Yes. The river has been for many years navigable up as far as Hartford. Above Hartford are the important cities of Springfield and Holyoke, and for some years there has been an effort made to make the river navigable up as far as Holyoke. The engineers have made unfavorable reports because of the great expense involved, and it is to get around the great expense that the proposition is now being considered to have a large part of such expense borne by private parties.

Mr. MOORE of Pennsylvania. Is not that about $2,000,000?

Mr. LAWRENCE. The original estimate was that it would cost the Government $6,000,000 to provide suitable navigation from Hartford to Holyoke. If private parties go to the expense of the construction of a dam and lock, the Government will be called upon to expend less than a million dollars.

The Clerk read as follows:

Improving Jamaica Bay, N. Y.: Continuing improvement in accordance with the report submitted in House Document No. 1488, Sixtieth Congress, second session, $300,000, from which amount the Secretary of War may reimburse the city of New York each month for the dredging and the disposition of dredged material of the preceding month at the actual unit price per cubic yard, place measurement: *Provided*, That such cost shall not exceed 8 cents per cubic yard.

Mr. MOORE of Pennsylvania. Mr. Chairman, will the gentleman explain if the city of New York contributes to the expense of this project?

Mr. SPARKMAN. It contributes in this way: It agrees to do a part of that work at a very small unit price. It is a large project, to cost the Government seven or eight millions of dollars. The city is to do certain dredging, for which the Government is to pay up to 8 cents per cubic yard. Besides, the city is to do other work, the cost of which is variously estimated from thirteen to seventy millions of dollars.

Mr. MOORE of Pennsylvania. Probably no State in the Union has done so much for the improvement of waterways as the State of New York. The question sometimes arises in the discussion of this bill as to whether there is any intent on the part of States or municipalities to help. I desire to know whether in this particular instance an obligation has been laid upon New York State or city to contribute to the expense of this improvement, which, of course, is general.

Mr. SPARKMAN. Well, the obligation is upon the city. I consider there is a very considerable contribution made by the city of New York.

Mr. MOORE of Pennsylvania. In his general statement a little while ago the chairman of the committee [Mr. SPARKMAN] referred to the contribution that the States along the Mississippi have made toward the construction of levee work. He indicated that the Government has spent about $26,000,000, if I remember the figures. He also stated that the States had contributed about twice as much, and that Louisiana has been very strong in its contributions. The question sometimes arises as to whether these large centers and great commercial centers—and that is the purpose of my question to the gentleman—get the treatment they ought to get in the distribution of the public money, and whether an unequal obligation is not laid upon them to contribute of their own funds to bring about national improvements.

The Clerk read as follows:

Improving Staten Island Sound, N. Y. and N. J., in accordance with the report submitted in House Document No. 1124, Sixty-second Congress, third session, $500,000; for maintenance of improvement of Arthur Kill and the waters connecting Raritan Bay with New York Harbor, including channel north of Shooters Island, $30,000; in all, $530,000.

Mr. MOORE of Pennsylvania. Mr. Chairman, in his opening address the chairman of the Rivers and Harbors Committee stated that the volume of tonnage there amounted to 30,000,000 tons, I think.

Mr. SPARKMAN. Yes.

Mr. MOORE of Pennsylvania. Is it not a fact, now that improvements have actually begun upon this very important stream, which in 16 miles carries this vast tonnage, that for years and years only about $5,000 was required for maintenance?

Mr. SPARKMAN. I do not recall the amount, but the item for maintenance there has been quite small. I can not remember just at the moment the amount.

Mr. MOORE of Pennsylvania. The total appropriations for permanent improvements probably in the aggregate would not exceed $100,000, all told.

Mr. SPARKMAN. I can give the exact figures. The total appropriations to date are $1,207,500.

Mr. MOORE of Pennsylvania. On a stream producing 30,000,000 tons per annum.

The Clerk read as follows:

Improving Woodbury Creek, N. J., in accordance with the report submitted in House Document No. 635, Sixty-second Congress, second session, and subject to the conditions set forth in said document, $8,000.

Mr. MOORE of Pennsylvania. Is the gentleman ready to quit? I desire to offer an amendment at this point, but if I may have the privilege of offering it later, I will be very glad to do so.

Mr. LAWRENCE. Mr. Chairman, I ask unanimous consent that this paragraph be passed over without prejudice.

Mr. MOORE of Pennsylvania. I want to offer a new paragraph here.

The CHAIRMAN. Is there objection? [After a pause.] The Chair hears none.

Mr. MOORE of Pennsylvania. I desire to offer an entirely new paragraph.

Mr. MANN. I suggest to the gentleman from Florida that he ask unanimous consent to pass pages 10 and 11.

Mr. LAWRENCE. Mr. Chairman, I ask unanimous consent that we pass over line 23, on page 9, to and including line 25, on page 11, without prejudice.

The CHAIRMAN. Is there objection? [After a pause.] The Chair hears none.

The Clerk read as follows:

Improving inland waterway between Rehoboth Bay and Delaware Bay, Del.: Continuing improvement in accordance with the reports submitted in House Document No. 823, Sixtieth Congress, first session, and in Rivers and Harbors Committee Document No. 51, Sixty-first Congress, third session, $41,725.

Mr. MOORE of Pennsylvania. Mr. Chairman, I ask unanimous consent that I may have leave later on to offer an amendment at that point?

Mr. SPARKMAN. Mr. Chairman, I ask unanimous consent that this paragraph be passed without prejudice, to be returned to later.

Mr. MOORE of Pennsylvania. I desire to offer an entirely new paragraph.

Mr. SPARKMAN. Well, the gentleman will have that opportunity.

The CHAIRMAN. The gentleman asks unanimous consent that this item be passed without prejudice. Is there objection?

Mr. MANN. That is, to offer an amendment following line 13, page 12.

Mr. MOORE of Pennsylvania. That is my request.

Mr. SPARKMAN. The committee will have no objection.

The CHAIRMAN. Without objection, it is so ordered. [After a pause.] The Chair hears no objection.

The Clerk read as follows:

Improving Susquehanna River above and below Havre de Grace, Md.: Completing improvement, $51,230.

Mr. MOORE of Pennsylvania. Mr. Chairman, this paragraph proposes to improve the Susquehanna River above and below Havre de Grace. The river is quite rocky above that point. I want to know how far it is contemplated to carry the improvement, because it may involve an important question of transportation.

Mr. SPARKMAN. It is only a very few miles. I forget the exact distance above Havre de Grace.

Mr. MOORE of Pennsylvania. Can the gentleman tell me whether any survey has been made recently of the Susquehanna River above Havre de Grace?

Mr. SPARKMAN. Yes; under an authorization in the bill of 1911.

Mr. MOORE of Pennsylvania. I want to say to the gentleman that I think the committee ought to be informed that the Susquehanna River is an interstate river and traverses the coal sections of Pennsylvania. If opened up for navigation it would have much to do in reducing the cost of living in carrying coal. I wanted to know if this paragraph would carry the improvements so far above Havre de Grace that it would reach the coal fields?

Mr. SPARKMAN. I do not think it would go that far, but it is a very imposing stream, and no doubt will receive just treatment.

The Clerk read as follows:

Improving inland waterway from Norfolk, Va., to Beaufort Inlet, N. C.: Continuing improvement in accordance with the report submitted in House Document No. 391, Sixty-second Congress, second session, $800,000: *Provided*, That no part of this amount shall be expended until the canal and appurtenant property belonging to the Chesapeake and Albemarle Canal Co. shall have been acquired by the United States by purchase in accordance with the agreement entered into between the Secretary of War and said company under date of February 17, 1912.

Mr. MANN. Mr. Chairman, I reserve a point of order on that paragraph. I want to ask whether there is any authority of law now for the Secretary of War to make an agreement for the purchase of this canal?

Mr. SPARKMAN. Oh, yes; there is ample authority for that, and the Secretary of War has gone ahead and entered into a contract, the terms of which have not yet been carried out.

Mr. MANN. What I wanted to inquire was whether the agreement entered into was some tentative agreement, or whether it was entered into under authority of some act of Congress?

Mr. SPARKMAN. There was authority contained in the act of Congress adopting the project.

Mr. MANN. I withdraw the point of order.

Mr. FOSTER. Mr. Chairman, I move to strike out the paragraph. I understand that the former river and harbor appropriation bill provided for the buying of this Chesapeake & Albemarle Canal and that up to this time the Government has never received title to this property. I do not know whether the Government will ever get title to it or not. But in a former bill $100,000 was appropriated, if I remember correctly, for the improvement of this canal when acquired by the Government. Now, we have have appropriated already $500,000 for acquiring the canal.

Mr. MANN. Will the gentleman yield?

Mr. FOSTER. Yes.

Mr. MANN. I understood the gentleman was going to make a motion to strike out the paragraph. Why not ask unanimous consent to pass it over?

Mr. FOSTER. Well, I am willing to do that. I ask unanimous consent that it be passed.

Mr. SMALL. Mr. Chairman, I think this might be disposed of now.

Mr. FOSTER. I do not think, Mr. Chairman, we could dispose of it without a hundred Members here, because, to my mind, it is an important thing, and I will not let it pass without that number being here.

Mr. SPARKMAN. Mr. Chairman, I ask unanimous consent that this item be passed over without prejudice.

The CHAIRMAN. The gentleman from Florida asks unanimous consent that the item be passed over without prejudice. Is there objection?

There was no objection.

Mr. SMALL. If it is passed over, when does it recur? We do not have to complete the bill before we recur to it?

The CHAIRMAN. I think that is in the option of the committee.

Mr. SMALL. I would like to have some understanding about that for personal reasons.

Mr. MANN. If the gentleman has any reason for it, let it be understood, and have it taken up the first thing when the House goes into committee again on this bill.

Mr. SPARKMAN. I should have no objection.

Mr. FOSTER. I have no objection. I should like for these two other paragraphs to go along with that.

Mr. MANN. Which paragraphs?

Mr. FOSTER. The two items following, on lines 21, 22, 23, and 24.

Mr. MANN. They will be taken up when the House again goes into Committee of the Whole on this bill.

The CHAIRMAN. The gentleman from Illinois [Mr. FOSTER] asks unanimous consent to pass over the three sections just read, to be taken up when the House again goes into Committee of the Whole. Is there objection?

There was no objection.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Improving Swift Creek, N. C.: For maintenance, $500.

Mr. HELM. Mr. Chairman, in listening to the reading of the bill I have heard quite a number of creeks mentioned—several in New Jersey and one or two in North Carolina. I would like to have some information about them. Do we appropriate money to lock and dam creeks? I presume we do. It seems we are going into the improvement of creeks generally in this appropriation bill. In my section of the country a creek is not a very large stream, never navigable.

Mr. SPARKMAN. A creek?

Mr. HELM. What I am trying to get at is the size of these creeks—for instance, Fishing Creek, in North Carolina. I think such a creek was mentioned. I would like to ask the chairman of the committee something about the size of these streams.

Mr. MANN. Suppose the gentleman asks that question on Thursday.

Mr. SPARKMAN. I will be glad to answer the gentleman right now. These creeks rise to the dignity of rivers. Certainly they are very important streams, and each one of them carries a large commerce, or at least many of them. For instance, here is Coopers Creek, which carries over 264,000 tons

of commerce annually. Mantua Creek carries 170,440 tons; Raccoon Creek, 58,107 tons.

Mr. HELM. Raccoon Creek. Where does that stream rise?

Mr. SPARKMAN. That is one of the rivers up in New Jersey.

Mr. HELM. I thought the gentleman said it was a creek.

Mr. SPARKMAN. I was saying they all rise to the dignity of rivers.

Mr. HELM. I would like to ask the chairman, What is the size of the boats that ply these creeks?

Mr. SPARKMAN. Most of them carry good-sized boats; not ocean-going vessels, of course, but vessels drawing 5, 6, 7, 8, 9, or 10 feet, some of them.

Mr. MANN. Canoes, anyhow. [Laughter.]

Mr. HELM. What does the gentleman from Florida mean by his statement? Does he refer to the length of the boats?

Mr. SPARKMAN. Draft.

Mr. ADAMSON. Mr. Chairman, will the gentleman yield?

Mr. SPARKMAN. Yes; with pleasure.

Mr. ADAMSON. Mr. Chairman, if the two gentlemen will yield to me a minute, I think I can cite another precedent which the Committee on Rivers and Harbors wisely follows, to show that the word "creek" is not a provincialism, and that they do not follow provincialisms in selecting terms for use in their bill. My recollection is that when I was a boy and went to Sunday school I read about St. Paul and party being shipwrecked and having trouble many days and nights, but "they discovered a certain creek with a shore, into the which they were minded to thrust in the ship." [Laughter.]

Mr. SPARKMAN. I am obliged to the gentleman for reminding me of that scriptural reference. I should be glad to have these creeks called rivers. The fact is they all rise to the importance of rivers, as the gentleman from Kentucky will see by a reference to the statements of the commerce they carry.

Mr. HELM. Will the gentleman tell me what is the total amount of money carried by this bill?

Mr. SPARKMAN. Oh, about $40,800,000.

Mr. HELM. Could not some of that money be saved if you cut out some of these creek projects?

Mr. SPARKMAN. Oh, yes. You would save money, of course.

Mr. HELM. How much money in this bill is appropriated for the improvement of creeks?

Mr. SPARKMAN. A very small sum, relatively.

Mr. HELM. How much?

Mr. SPARKMAN. I should say about $100,000. Certainly less than $150,000.

Mr. HUMPHREYS of Mississippi. Mr. Chairman, I should be glad to furnish that information if the gentleman from Florida will permit me.

Mr. SPARKMAN. I will be glad to have the gentleman do so.

Mr. HUMPHREYS of Mississippi. The appropriations carried for creeks that the gentleman complains of, out of a total of $40,000,000, amount to approximately $130,000. The tonnage carried on these creeks is about 7,000,000 tons; more than half as much as is carried on the Ohio River, for instance.

Mr. HELM. Does the gentleman mean to say there is more than half as much tonnage carried on these creeks as there is on the Ohio River?

Mr. HUMPHREYS of Mississippi. Yes; more than half as much tonnage is carried on these creeks as is carried on the Ohio River, and there is appropriated for all the creeks about $130,000, whereas the project of the Ohio River, in which the gentleman from Kentucky is deeply interested, contemplates an ultimate expenditure of more than $60,000,000.

Mr. HELM. I do not think this gentleman is particularly interested in the Ohio River.

Mr. HUMPHREYS of Mississippi. It is one of the great rivers of the world, and I assume that the gentleman is deeply interested in it.

And the value of the tonnage carried on these creeks is approximately $225,000,000 a year.

Mr. GALLAGHER. In other words, they are navigable rivers.

Mr. HUMPHREYS of Mississippi. In other words, the tonnage carried on these creeks will, I think, be equal to half as much as the American tonnage carried through the Panama Canal for the first several years after its completion. That canal cost about $400,000,000, and the appropriations carried for creeks in this bill amount to about $130,000.

Mr. HELM. Of course, I may be misled in my general idea of what a creek is, but it seems to me that any commerce that is moving on streams of this size must be largely of an individual or private nature.

Mr. HUMPHREYS of Mississippi. It is the same kind of tonnage that moves on all other streams. Take Newtown Creek, for instance. It carries a tonnage almost as great as the Mississippi River.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MOORE of Pennsylvania. Mr. Chairman, it is now nearly half past 6 o'clock. There are very few Members present, and I make the point of no quorum.

Mr. SPARKMAN. I move that the committee do now rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. MOON of Tennessee, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill (H. R. 28180) making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes, and had come to no resolution thereon.

ASSISTANT CLERK, COMMITTEE ON APPROPRIATIONS.

Mr. FITZGERALD. Mr. Speaker, on behalf of the Committee on Appropriations I ask unanimous consent for the present consideration of a resolution which I send to the Clerk's desk.

The SPEAKER. The gentleman from New York [Mr. FITZGERALD] asks unanimous consent for the present consideration of a resolution, which the Clerk will report.

The Clerk read as follows:

House resolution 783.

Resolved, That the Committee on Appropriations be authorized to employ an additional assistant clerk at $1,800 per annum.

The SPEAKER. Is there objection to the present consideration of this resolution?

Mr. GARRETT. Mr. Speaker, reserving the right to object, does the gentleman from New York desire to make any statement?

Mr. FITZGERALD. Mr. Speaker, there has been no increase in the clerical force of the Committee on Appropriations in 30 years. During that time the aggregate session appropriations have increased from $355,000,000 for 1884 to $1,019,000,000 for 1913, and the volume of the sundry civil bill, as represented in printed pages, is more than two-thirds as large as all of the annual bills at that time, and the sum it appropriates has increased from $23,679,000 to $142,265,000 for 1912, or much more than one-third of all the appropriations then.

The annual Book of Estimates has increased from a volume of 316 pages to one of 936 pages for the fiscal year 1914.

The House has recognized the augmented labors of the committee during that period by increasing its membership from 15 to 17, and finally to 21, and its office rooms from 2 to 4.

It was not until 1890 that the committee had stenographic reports made of hearings conducted in the preparation of appropriation bills, and at that time they made in all 368 printed pages. During the first session of this Congress they make five large volumes containing 4,675 printed pages.

These hearings have to be edited, duplicated, and irrelevant matter eliminated, headings inserted, proofs corrected, and indexes made. They are available to all, and used by many Members of the House and Senate and by all departments of the Government.

The work of the committee is necessarily continuous throughout the year, and without reference to whether Congress is in session or not, the vacation period being availed of for the preparation of tentative or subcommittee forms of the bills and putting records in permanent shape for reference and preservation.

The entire membership of the House, almost without exception, have to do with the work of the Committee on Appropriations, and an adequate and efficient clerical staff is quite indispensable in giving to the individual Members information concerning matters immediately affecting their constituencies or in reference to the public service, over which the committee have jurisdiction. This relation, too, of the committee to the whole membership of the House and the public generally extends into the vacation periods and is represented by no inconsiderable amount of correspondence and response to personal inquiries.

In 1883, aside from the Appropriation and Ways and Means Committees, only 10 committees of the House had annual clerks; now 36 of them are so provided, and in some cases—Interstate and Foreign Commerce, Invalid Pensions, and War Claims—they have three annual clerks each.

The work of the committee is in such condition that as a temporary relief it has been compelled to ask the Doorkeeper to detail one of his pages to assist the present force. So desperate is the need for additional help that the committee at a meeting directed me to submit this resolution to the House. We have six appropriation bills, and we are the center of information not

only for the House but for nearly every department of the Government.

Mr. GARRETT. Mr. Speaker, I understand the gentleman from New York to say that this is a unanimous request of the committee.

Mr. FITZGERALD. The unanimous request.

Mr. GARRETT. It is permanent in character.

Mr. FITZGERALD. It is to be permanent. The clerk of the Committee on Appropriations has been with that committee 33 years. The assistant clerk has been there 8 years. One of the present reporters of debates in the House graduated from that committee. The clerk of the Committee on Appropriations in the Senate was an assistant clerk of this committee. It is necessary that these men be trained in the work, so that they may become familiar with all the details of the vast appropriations of the Government, and they go on from Congress to Congress regardless of the political complexion of the House.

The SPEAKER. Is there objection to the present consideration of the resolution?

There was no objection.

The resolution was agreed to.

On motion of Mr. FITZGERALD, a motion to reconsider the vote whereby the resolution was agreed to was laid on the table.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED.

Mr. CRAVENS, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills and joint resolution of the following titles, when the Speaker signed the same:

H. R. 25878. An act granting certain lands for a cemetery to the Fort Bidwell People's Church Association of the town of Fort Bidwell, State of California, and for other purposes;

H. R. 14925. An act to amend an act to parole United States prisoners, and for other purposes, approved June 25, 1910;

H. R. 23001. An act to amend section 4472 of the Revised Statutes of the United States, relating to the carrying of dangerous articles on passenger steamers;

H. R. 3769. An act for the relief of Theodore N. Gates;

H. R. 24137. An act to refund to the National Cartage & Warehouse Co., of New York City, N. Y., excess duty;

H. R. 45. An act affecting the town sites of Timber Lake and Dupree in South Dakota;

H. R. 25764. An act to subject lands of former Fort Niobrara Military Reservation and other lands to homestead entry;

H. R. 22437. An act for the relief of the heirs of Anna M. Torreson, deceased;

H. R. 25515. An act for the relief of Joshua H. Hutchinson; and

H. J. Res. 239. Joint resolution authorizing the Secretary of War to deliver a condemned cannon to the Army and Navy Union, United States of America.

HOUSE BILL WITH SENATE AMENDMENTS.

Under clause 2 of Rule XXIV, House bill (H. R. 14053) to increase the pensions of surviving soldiers of Indian wars in certain cases, with Senate amendment, was referred to the Committee on Pensions.

SENATE BILLS REFERRED.

Under clause 2 of Rule XXIV, Senate bills and joint resolution of the following titles were taken from the Speaker's table and referred to their appropriate committees as indicated below:

S. 4547. An act to provide for the erection of a public building at Aberdeen, Wash.; to the Committee on Public Buildings and Grounds.

S. 4545. An act to provide for the erection of a public building in the city of Ellensburg, in the State of Washington; to the Committee on Public Buildings and Grounds.

S. J. Res. 155. Joint resolution extending the privilege of the proviso of section 2 of the act of June 7, 1906, to persons using alcohol for testing citrus fruits; to the Committee on Ways and Means.

ENROLLED BILLS PRESENTED TO THE PRESIDENT FOR HIS APPROVAL.

Mr. CRAVENS, from the Committee on Enrolled Bills, reported that this day they had presented to the President of the United States, for his approval, the following bills:

H. R. 22010. An act to amend the license law, approved July 1, 1902, with respect to licenses of drivers of vehicles for hire;

H. R. 24137. An act to refund to the National Cartage & Warehouse Co., of New York City, N. Y., excess duty;

H. R. 3769. An act for the relief of Theodore N. Gates;

H. R. 23001. An act to amend section 4472 of the Revised Statutes of the United States relating to the carrying of dangerous articles on passenger steamers;

H. R. 14925. An act to amend an act to parole United States prisoners, and for other purposes, approved June 25, 1910;

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H. R. 25764. An act to subject lands of former Fort Niobrara Military Reservation and other lands to homestead entry;

H. R. 25515. An act for the relief of Joshua H. Hutchinson;

H. R. 22437. An act for the relief of the heirs of Anna M. Torreson, deceased;

H. R. 45. An act affecting the townsites of Timber Lake and Dupree in South Dakota; and

H. J. Res. 239. Joint resolution authorizing the Secretary of War to deliver a condemned cannon to the Army and Navy Union, United States of America.

WITHDRAWAL OF PAPERS.

Mr. BOOHER, by unanimous consent, was given leave to withdraw from the files of the House, without leaving copies, papers in the case of Daniel O'Connor (H. R. 27398), Sixtieth Congress, no adverse report having been made thereon.

ADJOURNMENT.

And then, on motion of Mr. SPARKMAN (at 6 o'clock and 30 minutes p. m.), the House adjourned until to-morrow, Wednesday, January 22, 1913, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of Mermentau River, La. (H. Doc. No. 1290); to the Committee on Rivers and Harbors and ordered to be printed.

2. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of special board of engineers on examination and survey on system of impounding reservoirs at the headwaters of the Allegheny, Monongahela, and Ohio Rivers and their tributaries (H. Doc. No. 1289); to the Committee on Rivers and Harbors and ordered to be printed, with illustrations.

3. A letter from the Secretary of War, transmitting, pursuant to section 230, Revised Statutes, abstracts of proposals received during the fiscal year ended June 30, 1912, for material and labor in connection with works under the Engineer Department (H. Doc. No. 1294); to the Committee on Rivers and Harbors and ordered to be printed.

4. A letter from the Acting Secretary of the Treasury, transmitting copy of a communication from the Secretary of Agriculture submitting deficiency estimate of appropriations for the Department of Agriculture (H. Doc. No. 1291); to the Committee on Appropriations and ordered to be printed.

5. A letter from the Secretary of State, transmitting, pursuant to law, an authentic copy of the certificate of final ascertainment of electors for President and Vice President appointed in the State of Tennessee at an election held therein on November 5, 1912; to the Committee on Election of President, Vice President, and Representatives in Congress.

6. A letter from the Secretary of the Treasury, submitting supplemental estimates for appropriations for public buildings under control of the Treasury Department for the year 1913 (H. Doc. No. 1292); to the Committee on Appropriations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named as follows:

Mr. SHEPPARD, from the Committee on Public Buildings and Grounds, to which was referred the joint resolution (H. J. Res. 380) authorizing the granting of permits to the committee on inaugural ceremonies on the occasion of the inauguration of the President elect on March 4, 1913, etc., reported the same with amendment, accompanied by a report (No. 1349), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. HOUSTON, from the Committee on the Census, to which was referred the bill (H. R. 27996) to amend an act approved August 23, 1912, entitled "An act making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1913, and for other purposes," reported the same with amendment, accompanied by a report (No. 1350), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. CULLOP, from the Committee on Industrial Arts and Expositions, to which was referred the bill (H. R. 27876) to provide for the participation of the United States in the Panama-Pacific International Exposition, reported the same with amendment, accompanied by a report (No. 1358), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. NORRIS, from the Committee on the Judiciary, to which was referred the bill (S. 8000) providing for publicity in taking evidence under act of July 2, 1890, reported the same without amendment, accompanied by a report (No. 1356), which said bill and report were referred to the House Calendar.

Mr. MARTIN of South Dakota, from the Committee on Interstate and Foreign Commerce, to which was referred the bill (H. R. 27879) providing authority for the Northern Pacific Railway Co. to construct a bridge across the Missouri River in section 36, township 134 north, range 79 west, in the State of North Dakota, reported the same without amendment, accompanied by a report (No. 1363), which said bill and report were referred to the House Calendar.

Mr. STEVENS of Minnesota, from the Committee on Interstate and Foreign Commerce, to which was referred the bill (H. R. 27986) to authorize the city of Minneapolis, in the State of Minnesota, to construct a bridge across the Mississippi River in said city, reported the same with amendment, accompanied by a report (No. 1361), which said bill and report were referred to the House Calendar.

He also, from the same committee, to which was referred the bill (H. R. 27987) to authorize the city of Minneapolis, in the State of Minnesota, to construct a bridge across the Mississippi River in said city, reported the same with amendment, accompanied by a report (No. 1362), which said bill and report were referred to the House Calendar.

He also, from the same committee, to which was referred the bill (H. R. 27944) to authorize the city of Minneapolis, in the State of Minnesota, to construct a bridge across the Mississippi River in said city, reported the same with amendment, accompanied by a report (No. 1359), which said bill and report were referred to the House Calendar.

He also, from the same committee, to which was referred the bill (H. R. 27988) to authorize the city of Minneapolis, in the State of Minnesota, to construct a bridge across the Mississippi River in said city, reported the same with amendment, accompanied by a report (No. 1360), which said bill and report were referred to the House Calendar.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House, as follows:

Mr. BRADLEY, from the Committee on Invalid Pensions, to which was referred the bill (H. R. 3967) granting an increase of pension to John R. Fugill, reported the same without amendment, accompanied by a report (No. 1355), which said bill and report were referred to the Private Calendar.

Mr. REDFIELD, from the Committee on Invalid Pensions, to which was referred the bill (H. R. 27806) granting a pension to Mary MacArthur, reported the same with amendment, accompanied by a report (No. 1357), which said bill and report were referred to the Private Calendar.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. HOLLAND: A bill (H. R. 28327) authorizing the extension of Seventeenth, Evarts, and Bryant Streets NE., in the District of Columbia; to the Committee on the District of Columbia.

By Mr. FRANCIS: A bill (H. R. 28328) to authorize the donation of certain unused and obsolete guns now at Chickamauga Park, Ga., to the J. S. McCready Post, Grand Army of the Republic, of Cadiz, Ohio; to the Committee on Military Affairs.

By Mr. LAFFERTY: A bill (H. R. 28329) giving settlers on unsurveyed public lands who have made their entries of record since June 6, 1912, the option of acquiring title under sections 2291 and 2297 of the Revised Statutes of the United States as they existed prior to the passage of the act of June 6, 1912; to the Committee on the Public Lands.

Also, a bill (H. R. 28330) to extend additional time to bona fide homestead entrymen to complete residences and cultivation of their lands; to the Committee on the Public Lands.

By Mr. FRENCH: A bill (H. R. 28331) extending to the members of Capt. Henson's Company A, Stone County (Mo.) Militia, the provisions of the pension acts granting pensions to the soldiers and sailors of the War of the Rebellion; to the Committee on Invalid Pensions.

By Mr. HOBSON: A bill (H. R. 28332) to promote the efficiency of the Marine Band; to the Committee on Naval Affairs.

By Mr. RUCKER of Missouri: A bill (H. R. 28333) to increase the limit of cost of the United States post-office building at Chillicothe, Mo., heretofore authorized by Congress and to provide for the construction of a building suitable for post office, United States courts, and other governmental offices; to the Committee on Public Buildings and Grounds.

By Mr. ANTHONY: A bill (H. R. 28334) to authorize the exchange of certain properties between the insular government of Porto Rico and the War Department; to the Committee on Insular Affairs.

By Mr. MACON: A bill (H. R. 28335) to amend an act entitled "An act to codify, revise, and amend the laws relating to the judiciary," approved March 3, 1911; to the Committee on the Judiciary.

By Mr. DICKSON of Mississippi: A bill (H. R. 28336) authorizing the purchase of certain lands in Louisiana and Mississippi; to the Committee on Rivers and Harbors.

By Mr. GREGG of Texas: A bill (H. R. 28337) to provide for reconstructing the appraisers' stores for a courthouse, for acquiring and reconstructing property for an appraisers' store, and for rearranging the third story of the post office and customhouse at Galveston, Tex.; to the Committee on Public Buildings and Grounds.

By Mr. NEEDHAM: Joint resolution (H. J. Res. 388) extending the privilege of the proviso of section 2 of the act of June 7, 1906, to persons using alcohol for testing citrus fruits; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. AINEY: A bill (H. R. 28338) granting an increase of pension to Mary Quinlan; to the Committee on Invalid Pensions.

By Mr. ANSBERRY: A bill (H. R. 28339) granting an increase of pension to William H. Gump; to the Committee on Invalid Pensions.

By Mr. CALDER: A bill (H. R. 28340) granting an increase of pension to John P. Murphy; to the Committee on Pensions.

By Mr. CARLIN: A bill (H. R. 28341) for the relief of Albert O. Tucker; to the Committee on War Claims.

Also, a bill (H. R. 28342) granting an increase of pension to Mary C. Scrivener; to the Committee on Invalid Pensions.

Also, a bill (H. R. 28343) for the relief of Emma E. Frauner, George W. Seaton, Hiram K. Seaton, Howard Seaton, Mary Seaton, Blanche Seaton, George W. Taylor, Edward Taylor, and Catharine Pomeroy; to the Committee on War Claims.

By Mr. FERGUSSON: A bill (H. R. 28344) granting an increase of pension to Jesse Hubbert; to the Committee on Pensions.

By Mr. HAMMOND: A bill (H. R. 28345) granting a pension to Elizabeth McClarg; to the Committee on Invalid Pensions.

By Mr. HINDS: A bill (H. R. 28346) to amend and correct the military record of Rodney Woodman; to the Committee on Military Affairs.

By Mr. LAFFERTY: A bill (H. R. 28347) granting an increase of pension to Edward D. Hamilton; to the Committee on Invalid Pensions.

By Mr. LENROOT: A bill (H. R. 28348) granting a pension to Mary MacArthur; to the Committee on Invalid Pensions.

By Mr. MARTIN of South Dakota: A bill (H. R. 28349) granting an increase of pension to George W. Brown; to the Committee on Invalid Pensions.

By Mr. PORTER: A bill (H. R. 28350) granting a pension to Catherine Mann; to the Committee on Invalid Pensions.

By Mr. POST: A bill (H. R. 28351) to remove the charge of desertion from the record of James A. Cordell; to the Committee on Military Affairs.

By Mr. WHITACRE: A bill (H. R. 28352) granting a pension to Robert D. Patterson; to the Committee on Invalid Pensions.

By Mr. HAWLEY: A bill (H. R. 28353) granting a pension to Peter C. Deardorff; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By the SPEAKER (by request): Petition of farmers and others of Montgomery County, Md., favoring the passage of legislation for the building of the Lincoln boulevard from Washington to Gettysburg; to the Committee on the Library.

By Mr. ALLEN: Resolutions of the Boot and Shoe Workers' Union, Local No. 222, Cincinnati, Ohio, with reference to the prosecution by officials of the Department of Justice of the editors of the Appeal to Reason; to the Committee on Expenditures in the Department of Justice.

Also, resolution of the Illinois Chapter of the American Institute of Architects, approving site for the Lincoln memorial, but disapproving type of memorial; to the Committee on the Library.

By Mr. AINEY: Petition of the Bridgewater Baptist Church, Montrose, Pa., favoring the passage of the Kenyon "red light" injunction bill, to clean up Washington for the inauguration; to the Committee on the District of Columbia.

Also, petition of the Bridgewater Baptist Church and the Men's Brotherhood of the Baptist Church of Montrose, Pa., favoring the passage of the Kenyon-Sheppard bill, preventing the shipment of liquor into dry territory; to the Committee on the Judiciary.

By Mr. ANSBERRY: Petition of the Ohio State legislative committee of the Railway Conductors of America, Columbus, Ohio, protesting against the passage of the Brantley bill (S. 5382), known as the Federal accident-compensation act; to the Committee on the Judiciary.

Also, petition of Illinois Chapter American Institute of Architects, Chicago, Ill., approving site proposed for the memorial to be erected to Abraham Lincoln at Potomac Park, Washington, D. C., but opposing the design as approved by the National Commission of Fine Arts; to the Committee on the Library.

By Mr. BURKE of Wisconsin: Papers to accompany bill (H. R. 27998) granting an increase of pension to Elvin A. Estey; to the Committee on Invalid Pensions.

By Mr. CARY: Petition of the Jewett & Sherman Co., Milwaukee, Wis., protesting against any change in the present tariff on spices; to the Committee on Ways and Means.

By Mr. ESCH: Petition of the Association of Eastern Foresters, Trenton, N. J., protesting against the passage of proposed legislation to transfer the national forests to the States within which they lie; to the Committee on Agriculture.

By Mr. FITZGERALD: Petition of the German-American Peace Society, New York, protesting against the passage of House bill 8141, placing the State militia on the national pay roll; to the Committee on Military Affairs.

Also, petition of Illinois Chapter of the American Institute of Architects, approving site proposed for the memorial to be erected to Abraham Lincoln at Potomac Park on the river at Washington, D. C.; to the Committee on the Library.

Also, petition of board of directors of the National Business League of America, favoring the passage of legislation favoring the purchase of embassy sites and buildings by the United States of America in the foreign commercial centers of the world; to the Committee on Foreign Affairs.

By Mr. FORNES: Petition of the New York Leather Belting Co., New York; R. E. Dietz Co., New York; the American Laundry Machinery Co., Rochester, N. Y.; Louis Schulman, New York; Wood & Selick, New York; the Reliance Ball-Bearing Door Hanger Co., New York; Oliver Bros. Purchasing Co., New York; Hogan & Son, New York; and the Rogers, Peet Co., New York, all in the State of New York, favoring the passage of House bill 27567, for a 1-cent letter-postage rate; to the Committee on the Post Office and Post Roads.

By Mr. FOSS: Petition of citizens of Chicago, Ill., favoring the passage of the Kenyon-Sheppard bill prohibiting the shipment of liquor into dry territory; to the Committee on the Judiciary.

By Mr. FULLER: Petition of the Moran & Hastings Manufacturing Co., Chicago, Ill., in favor of House bill 27567, for 1-cent letter-postage rate; to the Committee on the Post Office and Post Roads.

Also, petition of Myron C. Skinner and others, favoring passage of House bill 1339, to increase pensions of those who lost an arm or a leg in the Civil War; to the Committee on Invalid Pensions.

By Mr. HINDS: Papers to accompany bill correcting the military record of Rodney Woodman; to the Committee on Military Affairs.

By Mr. LINDSAY: Petition of the Brooklyn and New York Chapters, American Institute of Architects, New York, favoring the passage of legislation for the adoption of the Mall as a proper site for the memorial to Abraham Lincoln; also favoring the proposed design; to the Committee on the Library.

By Mr. PARRAN: Papers to accompany bill (H. R. 28009) for the relief of Joseph Sedlack; to the Committee on Naval Affairs.

By Mr. POST: Petition of Orville Wright and others, of Dayton, Ohio, protesting against the passage of House bill 23417, relating to compulsory patent licenses; to the Committee on Patents.

Also, petition of H. A. Toulman and others, of Dayton, Ohio, favoring the passage of House bill 26277, for the establishment of a United States patent court of appeals; to the Committee on the Judiciary.

By Mr. REILLY: Petition of the Southington (Conn.) Board of Trade, favoring the passage of legislation for the establishment of a tariff commission to collect information pertaining to tariff to aid Congress in tariff legislation; to the Committee on the Judiciary.

Also, petition of the Audubon Society of Bridgeport, Conn., and the Milford Business Men's Association, Milford, Conn., favoring the passage of the McLean bill for granting Federal protection for all migratory birds; to the Committee on Agriculture.

By Mr. TILSON: Petition of the executive board of the Audubon Society of the State of Connecticut, Bridgeport, Conn., and the Milford Business Men's Association, Milford, Conn., favoring the passage of the McLean bill for the protection of all migratory birds by the Federal Government; to the Committee on Agriculture.

By Mr. WILSON of New York: Petition of the Eastern Talking Machine Dealers' Association, New York, protesting against the passage of section 2 of House bill 23417, prohibiting the fixing of prices by the manufacturers of patent goods; to the Committee on Patents.

SENATE.

WEDNESDAY, *January 22, 1913.*

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. SMOOT and by unanimous consent, the further reading was dispensed with and the Journal was approved.

SEWERAGE AND DRAINAGE SYSTEMS, HOT SPRINGS, ARK. (H. DOC. NO. 1298).

The PRESIDENT pro tempore (Mr. GALLINGER) laid before the Senate a communication from the Secretary of the Interior, transmitting, pursuant to law, a report on the existing sanitary and storm-water sewerage and drainage systems in the city of Hot Springs, Ark., together with plans and estimates for extension, which, with the accompanying papers and illustrations, was referred to the Committee on Appropriations and ordered to be printed.

YAKIMA INDIAN RESERVATION, WASH. (H. DOC. NO. 1299).

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of the Interior, transmitting, pursuant to law, a report on the conditions existing on the Yakima Indian Reservation, Wash., which, with the accompanying paper and illustrations, was referred to the Committee on Indian Affairs and ordered to be printed.

FINDINGS OF THE COURT OF CLAIMS.

The PRESIDENT pro tempore laid before the Senate communications from the assistant clerk of the Court of Claims, transmitting certified copies of the findings of fact and conclusions filed by the court in the following causes:

Elias S. Dennis, jr., son and sole heir of Elias S. Dennis, deceased, *v.* United States (S. Doc. No. 1034);

Joseph Hayes *v.* United States (S. Doc. No. 1033);

John A. Hobson, executor of Edward H. Hobson, deceased, *v.* United States (S. Doc. No. 1032);

Charles J. Hovey, administrator of Alvin P. Hovey, deceased, *v.* United States (S. Doc. No. 1031);

Byron R. Pierce *v.* United States (S. Doc. No. 1030);

Ella S. Marsh, Francis C. Sherman, Eaton G. Sherman (children), Martha Miller, Louis S. Aldrich, and Eleanor A. Radonavitz (grandchildren), sole heirs of Francis T. Sherman, deceased, *v.* United States (S. Doc. No. 1029);

Simon Lyon, administrator of Adolph von Steinwehr, deceased, *v.* United States (S. Doc. No. 1028);

Charles V. McAdams, administrator of George D. Wagner, deceased, *v.* United States (S. Doc. No. 1027);

Charles C. Walcutt, Sherman Walcutt, and John M. Walcutt, children and sole heirs of Charles C. Walcutt, deceased, *v.* United States (S. Doc. No. 1026);

Cyrus Bussey *v.* United States (S. Doc. No. 1025); and